UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
www.flsb.uscourts.gov

In re: **Administrative Order 16-05**

Adoption of Interim Local Rule 2090-1
_____/

The Court has determined that provisions of Local Rule 2090-1 regarding credit hours required to be qualified to practice in this court shall be amended to encourage pro bono service and to discourage abuse of pro hac vice appearances and further finds that there are exigent circumstances which justify implementation of these changes by an interim local rule, effective December 1, 2016. Accordingly, the Court **ORDERS** as follows:

1. Local Rule 2090-1 is amended by substituting the following text as Interim Local Rule 2090-1:

Rule 2090-1. Attorneys.

(A) ***Qualifications to Practice.*** *Except as provided in subdivision (C) of this rule, to be qualified to practice in this court an attorney must:*

(1) *be a member of the Bar of the United States District Court for the Southern District of Florida under the Special Rules Governing the Admission and Practice of Attorneys in the District Court;*

(2) *read and remain familiar with these rules, administrative orders, the Federal Rules of Bankruptcy Procedure, the Federal Rules of Civil Procedure, the Federal Rules of Evidence, The Florida Bar's Rules of Professional Conduct, and the Bankruptcy Code; and*

(3) *earn at least 12 credit hours by*

(a) *attending or participating in Florida Bar CLE courses related to the subject area of "Bankruptcy Law" during each attorney's Florida Bar three-year CLE reporting requirement; and/or*

(b) *performing eligible pro bono legal services for clients unable to afford counsel pursuant to criteria set forth under subdivision (B) below.*

This provision will not preclude an attorney from appearing who is within a three-year CLE reporting period but has not yet earned the required 12 credit hours for that period.

Attorneys appearing pursuant to this subdivision who are not registered users of CM/ECF must include on all papers the certification contained in Local Rule 9011-4(B).

(B) ***CLE Credit for Pro Bono Legal Services.*** *Attorneys may earn up to three CLE credit hours during any one three year cycle towards this court's legal education credit-hour requirement specified in subdivision (A)(3) of this Rule by performing eligible pro bono legal services for clients unable to afford counsel in cases pending or eligible to be filed before this court pursuant to assignment by this court, or by participation in pro bono cases taken in this District through eligible pro bono programs.*

(1) ***Definitions***

(a) *Eligible pro bono legal services are legal services for which there is* ***no compensation*** *to the attorney performing the legal services or for which the attorney has served as a registered mentor to a newer bankruptcy attorney or non-bankruptcy practitioner to take a bankruptcy case on a pro bono basis. Legal services provided by assigned counsel who receive compensation for those services from any source, legal services provided by counsel only when compelled by court order, or legal services provided by legal services organization attorneys within the scope of their employment, are not eligible pro bono legal services.*

(b) *Eligible pro bono programs are those in which a program, activity or case is sponsored by, and to which attorneys are assigned bankruptcy cases in our District on a pro bono basis by legal services organizations whose primary purpose is the furnishing of legal services to indigent persons of our community, and in which all recipients of the legal services provided by the program have been screened for financial eligibility to receive pro bono services. Such pro bono programs include, but are not limited to, those sponsored by the Put Something Back Program or the Bankruptcy Bar Foundation's Pro Bono Program in our District.*

(2) ***Pro Bono CLE Credit.*** *Credit for eligible pro bono legal services may be earned as follows:*

(a) ***Taking Pro Bono Cases.*** *Pro bono CLE Credit may be earned for the provision of eligible pro bono legal services to clients unable to*

afford counsel by taking pro bono bankruptcy cases from providers of eligible pro bono programs. A maximum of three pro bono CLE credit hours may be earned during any one reporting three year cycle, and only one credit per case absent extraordinary circumstances.

(b) ***Serving as a Registered Mentor.*** *Pro bono CLE Credit may be earned by providing mentorship services to newer bankruptcy attorneys and non-bankruptcy attorneys who are providing eligible pro bono services through eligible pro bono programs. A maximum of three pro bono CLE credits hours may be earned during any one reporting three-year cycle by the registered attorney mentoring such newer bankruptcy attorney or non-bankruptcy attorney in three pro bono bankruptcy cases during the span of each such reporting three-year cycle by showing proof of its registration for the provider of eligible pro bono programs.*

(c) ***Court Assignment.*** *Pro bono CLE Credit may be earned for the provision of eligible pro bono legal services to clients unable to afford counsel pursuant to assignment by a court. A maximum of three pro bono CLE credits hours may be earned during any one reporting three-year cycle for taking such cases. Attorneys, however, will not be given any credits for performing pro bono legal services pursuant to a sanction or by any order of this court providing otherwise.*

(C) ***Appearances Permitted as Exceptions to Qualification Requirements.*** *An attorney who has not fulfilled the qualifications to practice set forth in subdivision (A) above, may only appear as set forth in this subdivision. Any attorney who appears pursuant to this rule shall be deemed to be familiar with, and shall be governed by, these rules, and the Rules of Professional Conduct and other ethical limitations or requirements governing the professional behavior of members of The Florida Bar.*

(1) ***Appearances in Limited Instances.*** *An attorney may appear in the following limited instances without resort to the requirements contained in subdivision (A) or (C)(2) of this rule: (a) the preparation and filing of a notice of appearance (pursuant to Bankruptcy Rule 9010); (b) a request for service of notices (pursuant to Bankruptcy Rule 2002); (c) the preparation and filing of a proof of claim in chapter 7, 11, 12 or 13 cases, or ballots in chapter 11 cases; (d) the filing of notices under Local Rule 3070-1(B); (e) attendance and inquiry at the meeting of creditors held under 11 U.S.C. §341; and (f) attendance and representation of a creditor at a hearing which has been noticed to all creditors generally, except for*

representation of a party in a contested matter governed by Bankruptcy Rule 9014, or an adversary proceeding governed by Part VII of the Bankruptcy Rules.

(2) ***Pro Hac Vice Appearances.*** *Any attorney who is a member in good standing of the bar of any state, territory or insular possession of the United States, and who is qualified to practice in this court but is not a member of the bar of the United States District Court for the Southern District of Florida (a "visiting attorney"), may seek to appear pro hac vice in any case or proceeding before this court. Any applicable fee authorized under the Local Rules or General Orders of the United States District Court for the Southern District of Florida for pro hac vice appearances in the bankruptcy court must be paid at the filing of a motion to appear pro hac vice. Such visiting attorney shall associate with an attorney who is qualified to practice with this court, is a member in good standing of the bar of the United States District Court for the Southern District of Florida and qualified to practice before this court, and who maintains an office in this district for the practice of law (a "local attorney"). Such local attorney shall file the Local Form "Motion to Appear Pro Hac Vice" and proposed Local Form "Order Admitting Attorney Pro Hac Vice" in the relevant main bankruptcy case, unless the visiting attorney intends to appear only in a specific adversary proceeding in which case the motion shall be filed only in such adversary proceeding and the local form motion and proposed order may be edited accordingly. In the motion, the local attorney shall certify that he or she is a member in good standing of the bar of the United States District Court for the Southern District of Florida and qualified to practice before this court, that he or she is willing to act as local counsel, and that he or she will participate in the preparation and presentation of, and accept service of all papers in, the case in which the motion is filed and any adversary proceedings in which the visiting attorney appears on behalf of the same client or clients (unless the motion is limited to a particular adversary proceeding). If the motion is filed in the main case, the local attorney must acknowledge that if he or she declines to serve as local counsel in any adversary proceeding involving the same client or clients, separate local counsel must file an additional Motion to Appear Pro Hac Vice, and that absent such separate motion and an order of this court approving the same he or she will continue to act as local counsel for the client(s) in all such proceedings.*

In a separate affidavit filed with or as part of the motion, the proposed visiting attorney shall certify that he or she is qualified to practice before this court, and that he or she is a member in good standing of the bar of at least one state, territory, or insular possession of the United States, and

a member in good standing of the bar of at least one United States District Court, and indicate such jurisdictions. The proposed visiting attorney must certify that he or she has never been disbarred, that he or she is not currently suspended from the practice of law in the State of Florida or any other state, territory, or insular possession of the United States, and that he or she is not currently suspended from the practice of law before any United States Court of Appeals, United States District Court, or United States Bankruptcy Court. The proposed visiting attorney shall designate local counsel consistent with this local rule. The proposed visiting attorney shall acknowledge that local counsel is required to participate in the preparation and the presentation of, and accept service in, the case and any adversary proceedings in which the visiting attorney appears on behalf of the same client or clients, unless and until other local counsel is designated under this local rule (except where the motion is limited to a particular adversary proceeding). The proposed visiting attorney shall certify that he or she is familiar with and shall be governed by the local rules of this court, the rules of professional conduct and all other requirements governing the professional behavior of members of the Florida Bar.

District Court Local Rule 4(b)(2) applies to pro hac vice appearances before this court as the bankruptcy court is a court of the Southern District of Florida.

The court may waive the requirement of association with a local attorney upon good cause shown after the filing of a motion requesting such relief. The Local Form "Motion to Appear Pro Hac Vice" and proposed Local Form "Order Admitting Attorney Pro Hac Vice" may be modified as necessary for this purpose.

[Comment: See also Local Rule 9011-4(B)(2), required certification.]

(3) ***Appearances by Government Attorneys.*** *Any attorney who is an employee of the United States government, an agency thereof, or a state, municipality or agency or political subdivision thereof, may appear and participate in particular actions or proceedings before the court on behalf of such entity in the attorney's official capacity. Any attorney so appearing is subject to all of the rules of this court.*

(D) ***Attendance at Hearings Required for Debtor's Counsel.*** *An attorney who makes an appearance on behalf of a debtor must attend all hearings scheduled in the debtor's case that the debtor is required to attend under any provision of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, or order of the court, unless the court has granted a motion to withdraw pursuant to Local Rule 2091-1.*

(1) ***Attendance at Initial Debtor Interview (IDI) and Meeting of Creditors (341 Meeting).*** *The attorney attending the IDI or meeting of creditors must be familiar with the facts and schedules and have met and conferred with the client prior to appearing.*

(2) ***Attendance at Hearing Required for Debtor's Counsel.*** *An attorney who makes an appearance on behalf of a debtor, or a member of his or her firm who is familiar with the client and the file, must attend all hearings scheduled in the debtor's case that the debtor is required to attend under any provision of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, or order of the court, unless the court has granted a motion to withdraw pursuant to Local Rule 2091-1. The attorney may not use appearance counsel for any hearing unless (a) the client consents in advance to the use of the appearance attorney, (b) the client does not incur any additional expense associated with the use of an appearance attorney, (c) the appearance attorney complies with all applicable rules regarding disclosure of any fee sharing arrangements, and (d) appearance counsel is familiar with the debtor's schedules and statement of financial affairs and is otherwise familiar with the facts of the case.*

(E) ***Duties of Debtor's Counsel.*** *Unless the attorney has withdrawn as attorney for the debtor pursuant to Local Rule 2091-1, an attorney who files a petition on behalf of a debtor must advise the debtor of, and assist the debtor in complying with, all duties of a debtor under 11 U.S.C. §521.*

2. All cross-references in the Local Rules to Local Rule 2090-1, including any references contained in the official comments thereto, and in all court forms, guidelines, and clerk's instructions have been amended to reflect, where applicable, the renumbered sections of Interim Local Rule 2090-1.

3. The Clerk of Court is directed to provide notice of entry of this Order and to update the Local Rules as published by this Court to reflect Interim Local Rule 2090-1.

ORDERED in the Southern District of Florida on Nov. 29, 2016.

Laurel Myerson Isicoff
Chief United States Bankruptcy Judge

c: All SD Bankruptcy Judges
Clerk of Court