

RULES OF SUPREME COURT OF VIRGINIA
PART ONE A
FOREIGN ATTORNEYS

Rule 1A:3. Revocation of Certificates Issued to Attorneys Admitted Pursuant to Rule 1A:2.

Following receipt of evidence that a person who was admitted to practice pursuant to Rule 1A:2 prior to July 1, 2000, has been disbarred pursuant to Part Six of the Rules, the Supreme Court will revoke the certificate issued to that person.

Last amended by Order dated November 1, 2013; effective February 1, 2014.

RULES OF SUPREME COURT OF VIRGINIA
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Rule 1A:4. Out-of-State Lawyers - When Allowed by Comity to Participate in a Case *Pro Hac Vice*.

1. *Introduction.* A lawyer who is not a member of the Virginia State Bar, but is currently licensed and authorized to practice law in another state, territory, or possession of the United States of America (hereinafter called an "out-of-state lawyer") may apply to appear as counsel *pro hac vice* in a particular case before any court, board or administrative agency (hereinafter called "tribunal") in the Commonwealth of Virginia upon compliance with this rule.

2. *Association of Local Counsel.* No out-of-state lawyer may appear *pro hac vice* before any tribunal in Virginia unless the out-of-state lawyer has first associated in that case with a lawyer who is an active member in good standing of the Virginia State Bar (hereinafter called "local counsel"). The name of local counsel shall appear on all notices, orders, pleadings, and other documents filed in the case. Local counsel shall personally appear and participate in pretrial conferences, hearings, trials, or other proceedings actually conducted before the tribunal. Local counsel associating with an out-of-state lawyer in a particular case shall accept joint responsibility with the out-of-state lawyer to the client, other parties, witnesses, other counsel and to the tribunal in that particular case. Any pleading or other paper required to be served (whether relating to discovery or otherwise) shall be invalid unless it is signed by local counsel. The tribunal in which such case is pending shall have full authority to deal with local counsel exclusively in all matters connected with the pending case. If it becomes necessary to serve notice or process in the case, any notice or process served upon local counsel shall be deemed valid as if served on the out-of-state lawyer.

3. *Procedure for applying.* Appearance *pro hac vice* in a case is subject to the discretion and approval of the tribunal where such case is pending. An out-of-state lawyer desiring to appear *pro hac vice* under this rule shall comply with the procedures set forth herein for each case in which *pro hac vice* status is requested. For good cause shown, a tribunal may permit an out-of-state lawyer to appear *pro hac vice* on a temporary basis prior to completion by the out-of-state lawyer of the application procedures set forth herein. At the time such temporary admission is granted, the tribunal shall specify a time limit within which the out-of-state lawyer must complete the application procedures, and any temporary *pro hac vice* admission shall be revoked in the event the out-of-state lawyer fails to complete the application procedure within the time limit.

(a) *Notarized Application.* In order to appear *pro hac vice* as counsel in any matter pending before a tribunal in the Commonwealth of Virginia, an out-of-state lawyer shall deliver to local counsel to file with the tribunal an original notarized application and a non-refundable application fee of \$250.00 payable to the Clerk of the Supreme Court. *Pro hac vice* counsel must submit a notarized

application with the non-refundable application fee of \$250.00 for each separate case before a tribunal. The fee shall be paid to the Clerk of the Supreme Court of Virginia. The tribunal shall file a copy of the notarized application, as well as its order granting *pro hac vice* admission in the case and the \$250.00 fee, with the Clerk of the Supreme Court of Virginia. Original, notarized applications and orders granting, denying or revoking applications to appear *pro hac vice* shall be retained in a separate file containing all applications. The clerk of the tribunal shall maintain the application for a period of three years after completion of the case and all appeals.

(b) Motion to associate counsel *pro hac vice*. Local counsel shall file a motion to associate the out-of-state lawyer as counsel *pro hac vice* with the tribunal where the case is pending, together with proof of service on all parties in accordance with the Rules of the Supreme Court of Virginia. The motion of local counsel shall be accompanied by: (1) the original, notarized application of the out-of-state lawyer; (2) a proposed order granting or denying the motion; and (3) the required application fee.

(c) Entry of Order. The order granting or denying the motion to associate counsel *pro hac vice* shall be entered by the tribunal promptly and a copy of the order shall be forwarded to the Clerk of the Supreme Court. An out-of-state lawyer shall make no appearance in a case until the tribunal where the case is pending enters the order granting the motion to associate counsel *pro hac vice* unless temporary admission has been approved pursuant to this rule. The order granting *pro hac vice* status shall be valid until the case is concluded in the courts of this Commonwealth or a court revokes the *pro hac vice* admission.

4. *Notarized Application*. The notarized application required by this rule shall be on a form approved by the Supreme Court of Virginia and available at the office of the clerk of the tribunal where the case is pending.

5. *Discretion and Limitation on Number of Matters*. The grant or denial of a motion pursuant to this rule by the tribunal is discretionary. The tribunal shall deny the motion if the out-of-state lawyer has been previously admitted *pro hac vice* before any tribunal or tribunals in Virginia in twelve (12) cases within the last twelve (12) months preceding the date of the current application. In the enforcement of this limitation, the tribunal may consider whether the pending case is a related or consolidated matter for which the out-of-state lawyer has previously applied to appear *pro hac vice*. Before ruling on a *pro hac vice* motion, the tribunal shall verify with the Supreme Court of Virginia the number of cases during the preceding twelve (12) months in which the out-of-state lawyer was admitted in Virginia *pro hac vice*.

6. *Transfer of Venue and Appeal*. The out-of-state lawyer's *pro hac vice* admission shall be deemed to continue in the event the venue in the case or proceeding is transferred to another tribunal or is appealed; provided, however, that the tribunal having

jurisdiction over such transferred or appealed case shall have the discretion to revoke the authority of the out-of-state lawyer to appear *pro hac vice*.

7. *Duty to Report Status.* An out-of-state lawyer admitted *pro hac vice* shall have a continuing obligation during the period of such admission to advise the tribunal promptly of any disposition made of pending disciplinary charges or the institution of any new disciplinary proceedings or investigations. The tribunal shall advise the Clerk of the Supreme Court of Virginia if the tribunal denies or revokes the out-of-state lawyer's permission to appear *pro hac vice*.

8. *Record-keeping.* The Clerk of the Supreme Court of Virginia will maintain an electronic database necessary for the administration and enforcement of this rule.

9. *Disciplinary Jurisdiction of the Virginia State Bar.* An out-of-state lawyer admitted *pro hac vice* pursuant to this rule shall be subject to the jurisdiction of all tribunals and agencies of the Commonwealth of Virginia, and the Virginia State Bar, with respect to the laws and rules of Virginia governing the conduct and discipline of out-of-state lawyers to the same extent as an active member of the Virginia State Bar. An applicant or out-of-state lawyer admitted *pro hac vice* may be disciplined in the same manner as a member of the Virginia State Bar.

10. *In-State Services Related to Out-of-State Proceedings.* Subject to the requirements and limitations of Rule 5.5 of the Virginia Rules of Professional Conduct, an out-of-state lawyer may provide the following services without the entry of a *pro hac vice* order:

(a) In connection with a proceeding pending outside of Virginia, an out-of-state lawyer admitted to appear in that proceeding may render legal services in Virginia pertaining to or in aid of such proceeding.

(b) In connection with a case in which an out-of-state lawyer reasonably believes he is eligible for admission *pro hac vice* under this rule: (1) the out-of-state lawyer may consult in Virginia with a member of the Virginia State Bar concerning a pending or potential proceeding in Virginia; (2) the out-of-state lawyer may, at the request of a person in Virginia contemplating or involved in a proceeding in Virginia, consult with that person about that person's retention of the out-of-state lawyer in connection with that proceeding; and (3) on behalf of a client residing in Virginia or elsewhere, the out-of-state lawyer may render legal services in Virginia in preparation for a potential case to be filed in Virginia.

(c) An out-of-state lawyer may render legal services to prepare for and participate in an ADR process, regardless of where the ADR process or proceeding is expected to take place or actually takes place.

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Rule 1A:5. Virginia Corporate Counsel & Corporate Counsel Registrants.

Introduction

Notwithstanding any rule of this Court to the contrary, after July 1, 2004, any person employed in Virginia as a lawyer exclusively for a for-profit or a non-profit corporation, association, or other business entity, including its subsidiaries and affiliates, that is not a government entity, and the business of which consists solely of lawful activities other than the practice of law or the provisions of legal services ("Employer"), for the primary purpose of providing legal services to such Employer, including one who holds himself or herself out as "in-house counsel," "corporate counsel," "general counsel," or other similar title indicating that he or she is serving as legal counsel to such Employer, shall either (i) be a regularly admitted active member of the Virginia State Bar; (ii) be issued a Corporate Counsel Certificate as provided in Part I of this rule and thereby become an active member of the Virginia State Bar with his or her practice limited as provided therein; or (iii) register with the Virginia State Bar as provided in Part II of this rule; provided, however, no person who is or has been a member of the Virginia State Bar, and whose Virginia License, at the time of application, is revoked or suspended, shall be issued a Corporate Counsel Certificate or permitted to register under this Rule.

Part I

Virginia Corporate Counsel

(a) A lawyer admitted to the practice of law in a state (other than Virginia), or territory of the United States, or the District of Columbia may apply to the Virginia State Bar for a certificate as a Registered Virginia Corporate Counsel ("Corporate Counsel Certificate") to practice law as in-house counsel in this state when he or she is employed by an Employer in Virginia.

(b) Each applicant for a Corporate Counsel Certificate shall:

(1) File with the Virginia State Bar an application, under oath, upon a form furnished by the Virginia State Bar.

(2) Furnish a certificate, signed by the presiding judge of the court of last resort of a jurisdiction in which the applicant is admitted to practice law, stating that the applicant is licensed to practice law and is an active member in good standing of the bar of such jurisdiction.

(3) File an affidavit, upon a form furnished by the Virginia State Bar, from an officer of the applicant's Employer attesting to the fact that the applicant is employed as legal counsel to provide legal services exclusively to the Employer, including its subsidiaries and affiliates; that the nature of the applicant's employment conforms to the requirements of Part I of this rule; and that the Employer shall notify the Virginia State Bar immediately upon the termination of the applicant's employment.

(4) Certify that the applicant has read and is familiar with the Virginia Rules of Professional Conduct.

(5) Pay an application fee of one-hundred and fifty dollars.

(c) During the period in which an application for a Corporate Counsel Certificate is pending with the Virginia State Bar until the applicant is notified that either (i) his or her application is rejected; or (ii) he or she is eligible to practice pursuant to Part I of this rule, the applicant may be employed in Virginia as Certified Corporate Counsel on a provisional basis by an Employer furnishing the affidavit required by Part I(b)(3) of this rule.

(d) Upon a finding by the Virginia State Bar that the applicant has complied with the requirements of Part I(b) of this rule, the Virginia State Bar shall notify the applicant that he or she is eligible to be issued a Corporate Counsel Certificate. After the applicant has taken and subscribed to the oath required of attorneys at law, the applicant shall be issued a Corporate Counsel Certificate, which shall permit the applicant to practice law in Virginia solely as provided in Part I(f) of this rule. The applicant may take the required oath by appearing before the Justices of the Supreme Court of Virginia in Richmond at an appointed date and time or by appearing before a judge of a court of record in Virginia. The necessary motion and oath for an applicant who appears before a judge of a court of record can be found in the Appendix of Forms following Part One A of the Rules.

(e) A lawyer issued a Corporate Counsel Certificate shall immediately become an active member of the Virginia State Bar, with his or her practice limited as provided in Part I(f) of this rule, and shall pay to the Virginia State Bar the annual dues required of regularly admitted active members of the Virginia State Bar.

(f) The practice of a lawyer certified pursuant to Part I of this rule shall be limited to practice exclusively for the Employer furnishing the affidavit required by Part I(b)(3) of this rule, including its subsidiaries and affiliates, and may include appearing before a Virginia court or tribunal as counsel for the Employer. Except as specifically authorized under Part I (g) below, no lawyer certified pursuant to Part I of this rule shall (i) undertake to represent any person other than his or her Employer before a Virginia court or tribunal; (ii) offer or provide legal services to any person other than his or her Employer; (iii) undertake to provide legal services to any other person through his or her Employer; or (iv) hold himself or herself out to be authorized to provide legal services or advice to any person other than his or her Employer.

(g) Notwithstanding the restrictions set out in Part I (f) above on the scope of practice, a lawyer certified pursuant to Part I of this rule may, and is encouraged to, provide voluntary *pro bono publico* services in accordance with Rule 6.1 of the Virginia Rules of Professional Conduct.

(h) All legal services provided in Virginia by a lawyer certified pursuant to Part I of this rule shall be deemed the practice of law in Virginia and shall subject the lawyer to all rules governing the practice of law in Virginia, including the Virginia Rules of Professional Conduct and Part 6, Section IV, Paragraph 13 of the Rules of the Supreme Court of Virginia. Jurisdiction of the Virginia State Bar shall continue whether or not the lawyer retains the Corporate Counsel Certificate and irrespective of the lawyer's presence in Virginia.

(i) A lawyer certified pursuant to Part I of this rule shall be subject to the same membership obligations as other active members of the Virginia State Bar, including Mandatory Continuing Legal Education requirements. A lawyer certified pursuant to Part I of this rule shall use as his or her address of record with the Virginia State Bar a business address in Virginia of the Employer furnishing the affidavit required by Part I(b)(3) of this rule.

(j) A lawyer certified pursuant to Part I of this rule shall promptly report to the Virginia State Bar any change in employment, any change in bar membership status in any state, territory of the United States or the District of Columbia in which the lawyer has been admitted to the practice of law, or the imposition of any disciplinary sanction in a state, territory of the United States or the District of Columbia or by any federal court or agency before which the lawyer has been admitted to practice.

(k) A lawyer's authority to practice law which may be permitted pursuant to Part I of this rule shall be automatically suspended when (i) employment by the Employer furnishing the affidavit required by Part I(b)(3) of this rule is terminated, (ii) the lawyer fails to comply with any provision of Part I of this rule, or (iii) when the lawyer is suspended or disbarred for disciplinary reasons in any state, territory of the United States or the District of Columbia or by any federal court or agency before which the lawyer has been admitted to practice. Any lawyer whose authority to practice is suspended pursuant to (i) above shall be reinstated upon evidence satisfactory to the Virginia State Bar that the lawyer is in full compliance with the requirements of Part I of this rule, which shall include an affidavit furnished by the lawyer's new Employer. Any lawyer whose authority to practice is suspended pursuant to (ii) above may be reinstated by compliance with applicable provisions of Part 6, Section IV, Paragraph 19 of the Rules of the Supreme Court of Virginia. Any lawyer whose authority to practice is suspended or terminated under (iii) above shall petition for reinstatement pursuant to Part 6, Section IV, Paragraph 13 I.7. of the Rules of the Supreme Court of Virginia.

The period of time a lawyer practices law is permitted by a Corporate Counsel Certificate issued pursuant to Part I of this rule shall be considered in determining whether the lawyer has fulfilled the requirements for admission to practice law in

Virginia without examination pursuant to Rule 1A:1 and any guidelines approved by the Supreme Court of Virginia for review of applications for admission without examination.

(m) The Virginia State Bar may adopt regulations as needed to implement the requirements of Part I of this rule.

Part II

Corporate Counsel Registrants

(a) Notwithstanding the requirements of Part I of this rule, any lawyer as defined in the Introduction and Part I(a) of this rule may register with the Virginia State Bar as a "Corporate Counsel Registrant." A person admitted to the practice of law only in a country other than the United States, and who is a member in good standing of a recognized legal profession in that country, the members of which are admitted to practice law as lawyers, counselors at law, or the equivalent, and are subject to effective regulation and discipline by a duly constituted professional body or public authority, may also register under Part II of this rule.

(b) A registrant shall:

(1) Register with the Virginia State Bar upon a form, under oath, furnished by the Virginia State Bar, which shall include affirmations that (i) he or she will at no time undertake to represent his or her Employer or any other person, organization or business entity before a Virginia court or tribunal except as permitted pursuant to Rule 1A:4 of this Court, (ii) his or her work is limited to business and legal services related to issues confronting his or her Employer at a regional, national or international level with no specific nexus to Virginia, and (iii) he or she will not provide legal advice or services to any person other than his or her Employer.

(2) Furnish a certificate, signed by the presiding judge of the court of last resort of a jurisdiction in which the registrant is admitted to practice law, stating that the registrant is licensed to practice law and is an active member in good standing of the bar of such jurisdiction.

(3) File an affidavit, upon a form furnished by the Virginia State Bar, from an officer of the registrant's Employer attesting to the fact that the registrant is employed as legal counsel to provide legal services exclusively to the Employer, including its subsidiaries and affiliates; that the nature of the registrant's employment conforms to the requirements of Part II of this rule; and that the Employer shall notify the Virginia State Bar immediately upon the termination of the registrant's employment.

(4) Certify that the registrant has read and is familiar with the Virginia Rules of Professional Conduct.

(5) Pay a registration fee of one hundred and fifty dollars.

(c) During the period in which a corporate counsel registration is pending with the Virginia State Bar until the registrant is notified that either (i) his or her registration is rejected; or (ii) he or she is eligible to practice pursuant to Part II of this rule, the registrant may be employed in Virginia as a Corporate Counsel Registrant on a provisional basis by the Employer furnishing the affidavit required by Part II(b)(3) of this rule.

(d) Upon completion of the requirements of Part II(b) of this rule, the registrant shall immediately be recorded by the Virginia State Bar as a Corporate Counsel Registrant. Each registrant shall pay to the Virginia State Bar the annual dues required of regularly admitted active members of the Virginia State Bar. No lawyer registered pursuant to Part II of this rule shall (i) undertake to represent his or her Employer or any other person or entity before a Virginia court or tribunal except as permitted for lawyers licensed and in good standing in another United States jurisdiction pursuant to Rule 1A:4 of this Court; (ii) offer or provide legal services to any person other than his or her Employer; (iii) undertake to provide legal services to another through his or her Employer; or (iv) hold himself or herself out to be authorized to provide legal services or advice to any person other than his or her Employer.

(e) The provision of legal services to his or her Employer by a lawyer registered pursuant to Part II of this rule shall be deemed the practice of law in Virginia only for purposes of subjecting the lawyer to the Virginia Rules of Professional Conduct; the jurisdiction of the disciplinary system of the Virginia State Bar; and Part 6, Section IV, Paragraph 13 of the Rules of the Supreme Court of Virginia. Jurisdiction of the Virginia State Bar shall continue whether or not the lawyer maintains the registration and irrespective of the lawyer's presence in Virginia.

(f) A lawyer registered pursuant to Part II of this rule shall use as his or her address of record with the Virginia State Bar a business address in Virginia of the Employer furnishing the affidavit required by Part II(b)(3) of this rule.

(g) A lawyer registered pursuant to Part II of this rule shall promptly report to the Virginia State Bar any change in employment, any change in bar membership status in any state, territory of the United States, the District of Columbia, or other country in which the lawyer has been admitted to the practice of law, or the imposition of any disciplinary sanction in a state, territory of the United States, the District of Columbia, or other country, or by any federal court or agency before which the lawyer has been admitted to practice.

(h) A lawyer's authority to provide legal services which may be permitted pursuant to Part II of this rule shall be automatically suspended when (i) employment by the Employer furnishing the affidavit required by Part II(b)(3) of this rule is terminated, (ii) the lawyer fails to comply with any provision of Part II of this rule, or (iii) the lawyer is suspended or disbarred for disciplinary reasons in any state, territory of the United

States, the District of Columbia, other country, or by any federal court or agency before which the lawyer has been admitted to practice. Any lawyer whose authority to practice is suspended pursuant to (i) above shall be reinstated upon evidence satisfactory to the Virginia State Bar that the lawyer is in full compliance with the requirements of Part II of this rule, which shall include an affidavit furnished by the lawyer's new Employer. Any lawyer whose authority to practice is suspended pursuant to (ii) above may be reinstated by compliance with applicable provisions of Part 6, Section IV, Paragraph 19 of the Rules of the Supreme Court of Virginia. Any lawyer whose authority to practice is suspended or terminated pursuant to (iii) above, shall petition for reinstatement pursuant to Part 6, Section IV, Paragraph 13 I.7. of the Rules of the Supreme Court of Virginia.

(i) No time spent as Corporate Counsel Registrant shall be considered in determining eligibility for admission to the Virginia Bar without examination.

(j) The Virginia State Bar may adopt regulations as needed to implement the requirements of Part II of this rule.

Last amended by Order dated June 10, 2011; effective June 10, 2011.

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Rule 1A:6. Foreign Attorneys - Registered Military Legal Assistance Attorneys.

(a) A lawyer admitted to the practice of law in a state or territory of the United States, other than Virginia, who is serving in or employed by the armed services and is authorized to provide legal assistance pursuant to 10 U.S. Code § 1044, may apply to the Board of Bar Examiners for a certificate as a Registered Military Legal Assistance Attorney in Virginia ("Military Legal Assistance Attorney Certificate") to represent clients eligible for legal assistance in the courts and tribunals of this Commonwealth while the lawyer is employed, stationed, or assigned within Virginia.

(b) Each applicant for a Military Legal Assistance Attorney Certificate shall:

(1) File with the secretary of the Virginia Board of Bar Examiners an application, under oath, upon a form furnished by the Board.

(2) Furnish a certificate, signed by the presiding judge of the court of last resort, or other appropriate official of the jurisdiction in which the applicant is admitted to practice law, stating that the applicant is licensed to practice law and is an active member in good standing of the bar of such jurisdiction.

(3) File an affidavit, upon a form furnished by the Board, from commanding officer, staff judge advocate or chief legal officer of the military base in Virginia where the applicant is employed, stationed, or assigned, attesting to the fact that the applicant is serving as a lawyer to provide legal services exclusively for the military, that the nature of the applicant's employment or service conforms to the requirements of this rule, and that the commanding officer, staff judge advocate or chief legal officer, or his or her successor, shall notify the Virginia State Bar immediately upon the termination of the applicant's employment or service at the military base.

(c) Upon a finding by the Board of Bar Examiners that the applicant has produced evidence sufficient to satisfy the Board that the applicant is a person of honest demeanor and good moral character who possesses the requisite fitness to perform the obligations and responsibilities of a practicing attorney at law and satisfies all other requirements of this rule, the Board shall notify the applicant that he or she is eligible to be issued a Military Legal Assistance Attorney Certificate. After the applicant has taken and subscribed to the oaths required of attorneys at law, the Board shall issue to the applicant a Military Legal Assistance Attorney Certificate, which shall entitle the applicant to represent clients eligible for legal assistance in the courts and tribunals of this Commonwealth solely as provided in this rule.

(d) Each lawyer issued a Military Legal Assistance Attorney Certificate shall immediately register as an active member of the Virginia State Bar, with his or her practice limited as provided in this rule, and pay to the Virginia State Bar the same dues required of regularly admitted active members. (The requirement to pay dues shall be waived for a lawyer during the first two years immediately following the initial issue of a Military Legal Assistance Attorney Certificate to that lawyer.)

(e) The practice of a lawyer registered under this rule shall be limited within this Commonwealth to practice exclusively pursuant to the laws, rules, and regulations governing the military services, and may include appearing before a court or tribunal of this Commonwealth as counsel for a client eligible for legal assistance on:

- (1) Adoptions,
- (2) Guardianships,
- (3) Name changes,
- (4) Divorces,
- (5) Paternity,
- (6) Child custody and visitation, and child and spousal support,
- (7) Landlord-tenant disputes on behalf of tenants,
- (8) Consumer advocacy cases involving alleged breaches of contracts or warranties, repossession, or fraud,
- (9) Garnishment defense,
- (10) Probate,
- (11) Enforcement of rights under the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S. Code App. §§ 501-548, 560-593),
- (12) Enforcement of rights under the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S. Code §§ 4301-4333), and
- (13) Such other cases within the discretion of the court or tribunal before which the matter is pending.

(f) Representation in proceedings before courts or tribunals of this Commonwealth shall be limited to low-income legal assistance clients for whom hiring a lawyer in private practice would entail a substantial financial hardship to themselves or their families. All pleadings filed by a legal assistance attorney will cite this rule, include

the name, complete address, and telephone number of the military legal office representing the client and the name, rank or grade, and armed service of the lawyer registered under this rule providing representation.

(g) No lawyer registered under this rule shall (i) undertake to represent any person other than an eligible legal assistance client before a court or tribunal of this Commonwealth, (ii) offer to provide legal services in this Commonwealth to any person other than as authorized by his or her military service, (iii) undertake to provide legal services in this Commonwealth to any person other than as authorized by his or her military service, or (iv) hold himself or herself out in this Commonwealth to be authorized to provide legal services to any person other than as authorized by his or her military service.

(h) Representing clients eligible for legal assistance in the courts or tribunals of this Commonwealth under this rule shall be deemed the practice of law and shall subject the lawyer to all rules governing the practice of law in Virginia, including the Virginia Rules of Professional Conduct and the Rules of Procedure for Disciplining Lawyers (Rules of Court, Pt. 6, Section IV, Paragraph 13). Jurisdiction of the Virginia State Bar shall continue whether or not the lawyer retains the Military Legal Assistance Attorney Certificate and irrespective of the lawyer's presence in Virginia.

(i) Each person registered with the Virginia State Bar as an active member on the basis of a Military Legal Assistance Attorney Certificate shall be subject to the same membership obligations as other active members, including completion of the required Professionalism Course and annual Mandatory Continuing Education requirements. A lawyer registered under this rule shall use as his or her address of record with the Virginia State Bar the military address in Virginia of the commanding officer, staff judge advocate or chief legal officer which filed the affidavit on the lawyer's behalf.

(j) Each person issued a Military Legal Assistance Attorney Certificate shall promptly report to the Virginia State Bar any change in employment or military service, any change in bar membership status in any state or territory of the United States, or the District of Columbia where the applicant has been admitted to the practice of law, or the imposition of any disciplinary sanction in a state or territory of the United States or the District of Columbia or by any federal court or agency where the applicant has been admitted to the practice of law.

(k) The limited authority to practice law which may be granted under this rule shall be automatically terminated when (i) the lawyer is no longer employed, stationed, or assigned at the military base in Virginia from which affidavit required by this rule was filed, (ii) the lawyer has been admitted to the practice of law in this state by examination or pursuant to any other provision of part 1A of these Rules, (iii) the lawyer fails to comply with any provision of this rule, (iv) the lawyer fails to maintain current good standing as an active member of a bar in at least one state or territory of the United States, other than Virginia, or the District of Columbia, or (v) when suspended or disbarred for disciplinary reasons in any state or territory of the United States or the

District of Columbia or by any federal court or agency where the lawyer has been admitted to the practice of law. If a lawyer is no longer employed, stationed, or assigned at the military base in Virginia from which affidavit required by this rule was filed, but the lawyer, within six months after the last day of employment or service, is re-employed by, or militarily reassigned to, the same military base or by another military base in Virginia filing the affidavit required by this rule, the Military Legal Assistance Attorney Certificate shall be reinstated upon evidence satisfactory to the Board that the lawyer remains in full compliance with all requirements of this rule.

The period of time a lawyer practices law full time on the basis of a Military Legal Assistance Attorney Certificate issued pursuant to this rule shall be considered in determining whether such lawyer has fulfilled the requirements for admission to practice law in this Commonwealth without examination under Rule 1A:1 and any guidelines approved by the Supreme Court of Virginia for review of applications for admission without examination.

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Rule 1A:7. Certification of Foreign Legal Consultants.

(a) *General Requirements.* A person admitted to practice law by the duly constituted and authorized professional body or governmental authority of any foreign nation may apply to the Virginia Board of Bar Examiners ("Board") for a certificate as a foreign legal consultant, provided the applicant:

(1) is a member in good standing of a recognized legal profession in a foreign nation, the members of which are admitted to practice as attorneys or counselors at law or the equivalent and are subject to effective regulation and discipline by a duly constituted professional body or a governmental authority;

(2) for at least five of the seven years immediately preceding his or her application has been a member in good standing of such legal profession and has actually been engaged in the authorized practice of law, substantially involving or relating to the rendering of advice or the provision of legal services concerning the law of the said foreign nation;

(3) possesses the good moral character and general fitness requisite for a member of the bar of this Commonwealth;

(4) is at least twenty-six years of age; and

(5) intends to practice as a foreign legal consultant in this Commonwealth and maintain an office in this Commonwealth for that purpose.

(b) *Proof Required.* An applicant under this rule shall file with the secretary of the Board:

(1) an application for a foreign legal consultant certificate, on a form furnished by the Board,

(2) a certificate, for each foreign nation in which the applicant is admitted to practice, from the professional body or governmental authority in such foreign country having final jurisdiction over professional discipline, certifying as to the applicant's admission to practice and the date thereof, and as to his or her good standing as an attorney or counselor at law or the equivalent;

(3) a letter of recommendation, for each foreign nation in which the applicant is admitted to practice, from one of the members of the executive body of such professional body or governmental authority or from one of the judges of the highest law court or court of original jurisdiction of such foreign country;

(4) a duly authenticated English translation of each certificate and letter if, in either case, it is not in English;

(5) a copy or summary of the law, regulations, and customs of the foreign country that describes the opportunity afforded to a member of the Virginia State Bar ("the Bar") to establish an office to provide legal services to clients in such foreign country, together with an authenticated English translation if it is not in English;

(6) the requisite documentation establishing the applicant's compliance with the immigration laws of the United States; and

(7) such other evidence as to the applicant's educational and professional qualifications, good moral character and general fitness, and compliance with the requirements of paragraph (a) of this rule as the Board may require.

(c) *Reciprocal Treatment of Members of the Bar of this Commonwealth.* In considering whether to certify an applicant to practice as a foreign legal consultant, the Board may in its discretion take into account whether a member of the Bar would have a reasonable and practical opportunity to establish an office and give legal advice to clients in the applicant's country of admission. Any member of the Bar who is seeking or has sought to establish an office or give advice in that country may request the Board to consider the matter, or the Board may do so sua sponte.

(d) *Scope of Practice.* A person certified to practice as foreign legal consultant under this Rule may render legal services in the Commonwealth only with regard to matters involving the law of foreign nation(s) in which the person is admitted to practice or international law. For purposes of this paragraph, the term "international law" means a body of laws, rules or legal principles that are based on custom, treaties or legislation and that control or affect (1) the rights and duties of nations in relation to other nations or their citizens, or (2) the rights and obligations pertaining to international transactions.

The practice permitted under this rule does not authorize the foreign legal consultant to appear in court.

(e) *Rights and Obligations.* Subject to the scope of practice limitations set forth in paragraph (d) of this rule, a person certified as a foreign legal consultant under this rule shall be entitled and subject to:

(1) the rights and obligations contained in the Virginia Rules of Professional Conduct as set forth in Part 6, Section II of the Rules of the Supreme Court of Virginia; and the procedure for disciplining attorneys as set forth in Part 6, Section IV, Paragraph 13 of the Rules of the Supreme Court of Virginia

(2) the rights and obligations of a member of the Bar with respect to:

(i) affiliation in the same law firm with one or more members of the bar of this Commonwealth, including by:

(A) employing one or more members of the Bar;

(B) being employed by one or more members of the Bar or by any partnership or other limited liability entity authorized to practice law pursuant to Part 6, Section IV, Paragraph 14 of the Rules of the Supreme Court of Virginia, which such entity includes an active member of the Bar or which maintains an office in this Commonwealth;

(C) being a director, partner, member, manager or shareholder in any partnership or other professional limited liability entity authorized by Part 6, Section IV, Paragraph 14 to practice law in this Commonwealth which includes an active member of the Bar or which maintains an office in this Commonwealth;

(ii) employment as in-house counsel under Part II of Rule 1A:5;
and

(iii) attorney-client privilege, work-product privilege and similar professional privileges.

(3) No time spent practicing as a foreign legal consultant shall be considered in determining eligibility for admission to the Virginia bar without examination.

(f) *Disciplinary Provisions.* A person certified to practice as a foreign legal consultant under this Rule shall be subject to professional discipline in the same manner and to the same extent as any member of the Bar and to this end:

(1) Every person certified to practice as a foreign legal consultant under these Rules:

(i) shall be subject to regulation by the Bar and to admonition, reprimand, suspension, removal or revocation of his or her certificate to practice in accordance with the rules of procedure for disciplinary proceedings set forth in Part 6, Section IV, Paragraph 13 of the Rules of the Supreme Court of Virginia; and

(ii) shall execute and file with the Bar, in such form and manner as the Bar may prescribe:

(A) his or her commitment to observe the Virginia Rules of Professional Conduct and any other rules of court governing members of the bar to the extent they may be applicable to the legal services authorized under paragraph (d) of this Rule;

(B) a written undertaking to notify the Bar of any change in such person's good standing as a member of any foreign legal profession referred to in paragraph (a)(1) of this rule and of any final action of any professional body or governmental authority referred to in paragraph (b)(2) of this rule imposing any disciplinary censure, suspension, or other sanction upon such person; and

(C) a duly acknowledged instrument, in writing, setting forth his or her address in this Commonwealth which shall be both his or her address of record with the Bar and such person's actual place of business for rendering services authorized by this rule. Such address shall be one where process can be served and the foreign legal consultant shall have a duty to promptly notify the Membership Department of the Bar in writing of any changes in his or her address of record.

(g) *Application and Renewal Fees.* An applicant for a certificate as a foreign legal consultant under this rule shall pay to the Virginia Board of Bar Examiners the application fee and costs as may be fixed from time to time by the Board. A person certified as a foreign legal consultant shall pay an annual fee to the Virginia State Bar which shall also be fixed by the Supreme Court of Virginia. A person certified as a foreign legal consultant who fails to complete and file the renewal form supplied by the Bar or pay the annual fee shall have his or her certificate as a foreign legal consultant administratively suspended in accordance with the procedures set out in Part 6, Section IV, Paragraph 19 of the Rules of the Supreme Court of Virginia.

(h) *Revocation of Certificate for Non-Compliance.* In the event that the Bar determines that a person certified as a foreign legal consultant under this rule no longer meets the requirements under this rule, it shall revoke the certificate granted to such person hereunder.

(i) *Reinstatement.* Any foreign legal consultant whose authority to practice is suspended shall be reinstated upon evidence satisfactory to the Bar that such person is in full compliance with this rule; however, a reinstatement of a foreign legal consultant's certificate following a suspension for non-compliance with paragraph (g) of this rule shall be governed by Part 6, Section IV, Paragraph 19 of the Rules of the Supreme Court of Virginia; and reinstatement of a foreign legal consultant's certificate following a disciplinary suspension or revocation shall be governed by Part Six, Section IV, Paragraph 13 of the Rules of the Supreme Court of Virginia.

(j) *Admission to Bar.* In the event that a person certified as a foreign legal consultant under this rule is subsequently admitted as a member of the Bar under the provisions of the rules governing such admission, the certificate granted to such person hereunder shall be deemed superseded by the admission of such person to the Bar.

(k) *Regulations.* The Bar and the Board may adopt regulations as needed to implement their respective responsibilities under this rule.

(l) *Effective Date.* This rule shall become effective on January 1, 2009.

RULES OF SUPREME COURT OF VIRGINIA
PART ONE A
FOREIGN ATTORNEYS

Rule 1A:8. Military Spouse Provisional Admission.

1. **Requirements.** A person who meets all requirements of subparagraphs (a) through (m) of paragraph 2 of this Rule 1A:8 may, upon motion, be provisionally admitted to the practice of law in Virginia.

2. **Required Evidence.** The applicant for provisional admission shall submit evidence satisfactory to the Virginia Board of Bar Examiners (the "Board") that he or she:

(a) has been admitted by examination to practice law before the court of last resort of any state or territory of the United States or of the District of Columbia;

(b) holds a Juris Doctor degree from a law school accredited by the American Bar Association at the time of such applicant's graduation;

(c) has achieved a passing score on the Multistate Professional Responsibility Examination as it is established in Virginia at the time of application;

(d) is currently an active member in good standing in at least one state or territory of the United States, or the District of Columbia, where the applicant is admitted to the unrestricted practice of law, and is a member in good standing in all jurisdictions where the applicant has been admitted;

(e) is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;

(f) possesses the good character and fitness to practice law in Virginia;

(g) is the dependent spouse of an active duty service member of the United States Uniformed Services as defined by the Department of Defense (or, for the Coast Guard when it is not operating as a service in the Navy, by the Department of Homeland Security) and that the service member is on military

orders stationed in the Commonwealth of Virginia or the National Capitol region, as defined by the Department of Defense;

(h) is physically residing in Virginia;

(i) has submitted all requested character investigation information, in a manner and to the extent established by the Board, including all required supporting documents;

(j) has never failed the Virginia Bar Examination;

(k) has completed twelve (12) hours of instruction approved by the Virginia Continuing Legal Education Board on Virginia substantive and/or procedural law, including four (4) hours of ethics, within the six-month period immediately preceding or following the filing of the applicant's application;

(l) certifies that he or she has read and is familiar with the Virginia Rules of Professional Conduct; and

(m) has paid such fees as may be set by the Board to cover the costs of the character and fitness investigation and the processing of the application.

3. Issuance, Admission, Duration and Renewal.

(a) *Issuance.* - The Board having certified that all prerequisites have been complied with, the applicant for provisional admission shall, upon payment of applicable dues and completion of the other membership obligations set forth in Part 6, Section IV of the Rules of the Supreme Court of Virginia, become an active member of the Virginia State Bar. An attorney provisionally admitted pursuant to this Rule shall be subject to the same membership obligations as other active members of the Virginia State Bar, and all legal services provided in Virginia by a lawyer admitted pursuant to this Rule shall be deemed the practice of law and shall subject the attorney to all rules governing the practice of law in Virginia, including the Virginia Rules of Professional Conduct.

(b) *Admission.* - Upon notification by the Board that the applicant's application has been approved, the applicant shall take and subscribe to the oath required of attorneys at law. The applicant may take the required oath by appearing before the Justices of the Supreme Court of Virginia in Richmond at an

appointed date and time or by appearing before a judge of a court of record in Virginia. Once the attorney has taken the oath, it shall remain effective until the attorney's provisional admission is terminated pursuant to paragraph 5 of this Rule.

(c) *Duration.* - A provisional admission may be renewed by July 31 of each year, upon filing with the Virginia State Bar (i) a written request for renewal, (ii) an affidavit by supervising Local Counsel, who certifies to the provisionally admitted attorney's continuing employment by or association with Local Counsel and to Local Counsel's adherence to the supervision requirements as provided under this Rule, and (iii) compliance with the membership obligations of Part 6, Section IV of the Rules of the Supreme Court of Virginia applicable to active members of the Virginia State Bar.

(d) *Renewal.* - When the active duty service member is assigned to an unaccompanied or remote follow-on assignment and the attorney continues to physically reside in Virginia, the provisional admission may be renewed until that unaccompanied or remote assignment ends, provided that the attorney complies with the other requirements for renewal.

4. Supervision of Local Counsel. A person provisionally admitted to practice under this Rule may engage in the practice of law in this jurisdiction only under the supervision and direction of Local Counsel.

(a) As used in this Rule, Local Counsel means an active member in good standing of the Virginia State Bar, whose office is in Virginia.

(b) Local Counsel must provide to the Virginia State Bar his or her Virginia State Bar number, physical office address, mailing address, email address, telephone number, and written consent to serve as Local Counsel, on the form provided by the Board.

(c) Unless specifically excused from attendance by the trial judge, Local Counsel shall personally appear with the provisionally admitted attorney on all matters before the court.

(d) Local Counsel will be responsible to the courts, the Virginia State

Bar, the Supreme Court of Virginia, and the client for all services provided by the provisionally admitted attorney pursuant to this Rule.

(e) Local Counsel is obligated to notify the Executive Director of the Virginia State Bar when the supervising relationship between the provisionally admitted attorney and Local Counsel is terminated.

5. Events of Termination. An attorney's provisional admission to practice law pursuant to this Rule shall immediately terminate and the attorney shall immediately cease all activities under this Rule upon the occurrence of any of the following:

(a) The spouse's discharge, separation or retirement from active duty in the United States Uniformed Services, or the spouse's no longer being on military orders stationed in the Commonwealth of Virginia or the National Capitol region as defined by the Department of Defense, except as provided in section 3(c) of this Rule;

(b) Failure to meet the annual licensing requirements of an active member of the Virginia State Bar;

(c) The absence of supervision by Local Counsel;

(d) The attorney no longer physically residing within the Commonwealth of Virginia;

(e) The attorney ceasing to be a dependent as defined by the Department of Defense (or, for the Coast Guard when it is not operating as a service in the Navy, by the Department of Homeland Security) on the spouse's official military orders;

(f) The attorney being admitted to practice law in this Commonwealth under an admissions rule other than that of Provisional Admission;

(g) The attorney receiving a failing score on the Virginia Bar Examination;

(h) The attorney being suspended from the practice of law in Virginia;
or

(i) Request by the attorney.

6. Notices Required.

(a) An attorney provisionally admitted under this Rule shall provide written notice to the Virginia State Bar of any Event of Termination within thirty (30) days of the occurrence thereof.

(b) Within thirty (30) days of the occurrence of any Event of Termination, the attorney shall:

(i) provide written notice to all his or her clients that he or she can no longer represent such clients and furnish proof to the Executive Director of the Virginia State Bar within sixty (60) days of such notification; and

(ii) file in each matter pending before any court or tribunal in this Commonwealth a notice that the attorney will no longer be involved in the matter, which shall include the substitution of the Local Counsel, or such other attorney licensed to practice law in Virginia selected by the client, as counsel in the place of the provisionally admitted attorney.

7. Benefits and Responsibilities. An attorney provisionally admitted under this Rule shall be entitled to the benefits and be subject to all responsibilities and obligations of active members of the Virginia State Bar, and shall be subject to the jurisdiction of the courts and agencies of the Commonwealth of Virginia and to the Virginia State Bar with respect to the laws and rules of this Commonwealth governing the conduct and discipline of attorneys to the same extent as an active member of the Virginia State Bar.

Promulgated by Order dated May 16, 2014; last amended by Order dated February 27, 2015, effective immediately.

RULES OF SUPREME COURT OF VIRGINIA
PART ONE A
FOREIGN ATTORNEYS
APPENDIX

1. Application to Appear Pro Hac Vice Before A Virginia Tribunal.

[Note: *the following form may be submitted electronically pursuant to Rule 1:17 and related provisions of Virginia law.*]

I, _____, the undersigned attorney, hereby apply
NAME OF APPLICANT
to this tribunal of the Commonwealth of Virginia, _____, to appear as
NAME OF TRIBUNAL
Counsel pro hac vice pursuant to Rule 1A:4 of the Rules of the Supreme Court of Virginia.
I further state the following:

1. The case in which I seek to appear pro hac vice is styled
_____, has docket number _____ and is pending in _____
This case ☐ is ☐ is not a related or consolidated matter for which I have
previously applied to appear pro hac vice.

2. _____
APPLICANT'S RESIDENCE ADDRESS

APPLICANT'S OFFICE ADDRESS

3. _____
NAME OF LOCAL COUNSEL VSB NUMBER

STREET ADDRESS

FAX NUMBER EMAIL ADDRESS TELEPHONE NUMBER

4. _____
NAME OF PARTY TO CASE

NAME AND ADDRESS OF COUNSEL FOR PARTY

NAME OF PARTY TO CASE

NAME AND ADDRESS OF COUNSEL FOR PARTY

NAME OF PARTY TO CASE

NAME AND ADDRESS OF COUNSEL FOR PARTY

☐ Additional Sheet attached.

5.
COURT TO WHICH APPLICANT IS ADMITTED DATE OF ADMISSION

.....
COURT TO WHICH APPLICANT IS ADMITTED DATE OF ADMISSION

☐ Additional Sheet attached.

6. I am a member in good standing and authorized to appear in the courts identified in paragraph 5.
7. I am not currently disbarred or suspended in any state, territory, United States possession or tribunal.
8. I ☐ am not ☐ am subject to a pending disciplinary investigation or proceeding by any court, agency or organization authorized to discipline me as a lawyer. (If such an investigation or proceeding is pending, attach to this application and incorporate by reference a statement specifying the jurisdiction, the nature of the matter under investigation or being prosecuted, and the name and address of the disciplinary authority investigating or prosecuting the matter.)
9. Within the past three (3) years, I ☐ have not ☐ have been disciplined by any court, agency or organization authorized to discipline me as a lawyer. (If so, attach to this application and incorporate by reference a statement specifying the name of the court, agency or organization imposing discipline, the date(s) of such discipline, the nature of the complaint or charge on which discipline was imposed, and the sanction.)
10. Within the last twelve (12) months preceding this application, I ☐ have not ☐ have sought admission pro hac vice under this rule. (If so, attach to this application and incorporate by reference a copy of the order of the tribunal granting or denying your previous application. Such order(s) must include the name of the tribunal, the style of case and the docket number for the case(s) in which you filed an application and whether the application was granted or denied.)

☐ Order(s) attached and incorporated by reference.

11. I hereby consent to the jurisdiction of the courts and agencies of the Commonwealth of Virginia and of the Virginia State Bar and I further consent to service of process at any address(es) required by this Rule.
12. I agree to review and comply with appropriate rules of procedure as required in the case for which I am applying to appear pro hac vice.
13. I understand and I agree to comply with the rules and standards of professional conduct required of members of the Virginia State Bar.

.....
DATE

.....
SIGNATURE OF APPLICANT

Commonwealth/State of

☐ City ☐ County of

Subscribed and sworn to/affirmed before me on this date by the above-named person.

.....
DATE

.....
NOTARY PUBLIC

My commission expires:

Last amended by Order dated March 1, 2011; effective May 2, 2011.

This Form added to the Rules by Order dated June 10, 2011; effective June 10, 2011.

RULES OF SUPREME COURT OF VIRGINIA
PART ONE A
FOREIGN ATTORNEYS
APPENDIX

2. Motion and Oath for Admission as Corporate Counsel.

ADMISSION ON MOTION
(CORPORATE COUNSEL)

MAY IT PLEASE THE COURT, I WISH TO PRESENT

_____,
A MEMBER OF THE BAR OF THE STATE OF _____

(OR THE DISTRICT OF COLUMBIA), WHO HAS FILED AN
APPLICATION TO BE ADMITTED TO PRACTICE LAW IN THE
COMMONWEALTH OF VIRGINIA AS CORPORATE COUNSEL.

_____ HAS BEEN
NOTIFIED THAT HIS/HER APPLICATION HAS BEEN APPROVED,
AND I NOW MOVE HIS/HER ADMISSION AS A CORPORATE
COUNSEL TO THE BAR OF THE SUPREME COURT OF VIRGINIA.

Signature of Sponsor

_____ # _____
Printed Name of Sponsor Virginia Bar Number

ATTORNEY OATH (CORPORATE COUNSEL)

I do solemnly swear or affirm that I will support the Constitution of the United States and the Constitution of the Commonwealth of Virginia, and that I will faithfully, honestly, professionally, and courteously demean myself in the practice of law and execute my office of attorney at law to the best of my ability, so help me God.

(Print Full Name) _____

(Signature) _____

(Phone and email) _____

Signature of Judge Administering Oath

Printed Name of Judge Administering Oath

Name of Court

Date

A Copy,

Teste:

Clerk

RULES OF SUPREME COURT OF VIRGINIA
PART TWO
VIRGINIA RULES OF EVIDENCE

ARTICLE I. GENERAL PROVISIONS

Rule 2:101 TITLE

These Rules shall be known as Virginia Rules of Evidence.

Adopted and promulgated by Order dated June 1, 2012; effective July 1, 2012.

RULES OF SUPREME COURT OF VIRGINIA
PART TWO
VIRGINIA RULES OF EVIDENCE

ARTICLE I. GENERAL PROVISIONS

Rule 2:102 SCOPE AND CONSTRUCTION OF THESE RULES

These Rules state the law of evidence in Virginia. They are adopted to implement established principles under the common law and not to change any established case law rendered prior to the adoption of the Rules. Common law case authority, whether decided before or after the effective date of the Rules of Evidence, may be argued to the courts and considered in interpreting and applying the Rules of Evidence. As to matters not covered by these Rules, the existing law remains in effect. Where no rule is set out on a particular topic, adoption of the Rules shall have no effect on current law or practice on that topic.

Adopted and promulgated by Order dated June 1, 2012; effective July 1, 2012.

RULES OF SUPREME COURT OF VIRGINIA
PART TWO
VIRGINIA RULES OF EVIDENCE

ARTICLE I. GENERAL PROVISIONS

Rule 2:103 OBJECTIONS AND PROFFERS

(a) *Admission or exclusion of evidence.* Error may not be predicated upon admission or exclusion of evidence, unless:

(1) As to evidence admitted, a contemporaneous objection is stated with reasonable certainty as required in Rule 5:25 and 5A:18 or in any continuing objection on the record to a related series of questions, answers or exhibits if permitted by the trial court in order to avoid the necessity of repetitious objections; or

(2) As to evidence excluded, the substance of the evidence was made known to the court by proffer.

(b) *Hearing of jury.* In jury cases, proceedings shall be conducted so as to prevent inadmissible evidence from being made known to the jury.

Adopted and promulgated by Order dated June 1, 2012; effective July 1, 2012.

RULES OF SUPREME COURT OF VIRGINIA
PART TWO
VIRGINIA RULES OF EVIDENCE

ARTICLE I. GENERAL PROVISIONS

Rule 2:104 PRELIMINARY DETERMINATIONS

(a) *Determinations made by the court.* The qualification of a person to be a witness, the existence of a privilege, or the admissibility of evidence shall be decided by the court, subject to the provisions of subdivision (b).

(b) *Relevancy conditioned on proof of connecting facts.* Whenever the relevancy of evidence depends upon proof of connecting facts, the court may admit the evidence upon or, in the court's discretion, subject to, the introduction of proof sufficient to support a finding of the connecting facts.

(c) *Hearing of jury.* Hearings on the admissibility of confessions in all criminal cases shall be conducted out of the hearing of the jury. Hearings on other preliminary matters in all cases shall be so conducted whenever a statute, rule, case law or the interests of justice require, or when an accused is a witness and so requests.

(d) *Testimony by accused.* The accused does not, by testifying upon a preliminary matter, become subject to cross-examination as to other issues in the case.

(e) *Evidence of weight or credibility.* This rule does not limit the right of any party to introduce before the jury evidence relevant to weight or credibility.

Adopted and promulgated by Order dated June 1, 2012; effective July 1, 2012.