

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT OF SDCL)
16-18-2)

RULE 95-9

Pursuant to a hearing held on February 16, 1995, at Pierre, South Dakota, relating to the adoption of a new rule regarding the appearance of nonresident attorneys, unlicensed in the State of South Dakota, at administrative hearings, the Court having considered the proposed new rule, the correspondence and oral presentations relating thereto, if any, and having determined that no new rule should be adopted but that SDCL 16-18-2 should be amended to include the language of the proposed new rule, now, therefore, it is

ORDERED that SDCL 16-18-2 be and it is hereby amended to read in its entirety as follows:

16-18-2. Appearance by nonresident attorneys permitted. A nonresident attorney, although not licensed to practice law in the state of South Dakota, but licensed in another jurisdiction within the United States, may, after first complying with the requirements hereinafter set forth, participate in the trial or hearing of any particular cause in this state, provided a resident practicing attorney of this state, a member of the state bar of South Dakota, is actually employed and associated and personally participates with such nonresident attorney in such a trial or hearing. If such admission is sought to any court of this state by a nonresident attorney, the applicant shall first file with the court wherein he or she seeks admission a written sworn motion requesting admission. The motion shall contain

- (1) The post-office address of the nonresident attorney;
- (2) The office address of an attorney of this state with whom the nonresident attorney is associated in the trial;

Rule 95-9

- (3) A statement that the nonresident attorney is a member in good standing of the bar of the state of his residence;
- (4) A statement that the nonresident attorney has not been the subject of disciplinary action by the bar or courts of the state of his residence or of any state during the preceding five years;
- (5) A statement that the nonresident attorney has not been denied admission to the courts of any state or to any federal court during the preceding five years;
- (6) A statement that the applicant is familiar with the rules of the state bar of South Dakota governing the conduct of members of the state bar of South Dakota, and will at all times abide by and comply with the same so long as such trial or hearing is pending, and he or she has not withdrawn as counsel therein.
- (7) A statement that the nonresident attorney:
 - (a) has completed an application for a South Dakota Sales and Use Tax License or that such license has been issued to the nonresident attorney by the South Dakota Department of Revenue; or
 - (b) is not in private practice and is appearing on behalf of an employer for whom said nonresident attorney is employed on a full time basis and that such appearance in the courts of South Dakota is part of said nonresident attorney's duties without additional compensation being paid for such appearance.

The motion of the nonresident attorney seeking admission shall be accompanied by motion of the resident practicing attorney of this state within whom he or she shall be associated in the trial or hearing of a particular cause, which shall contain a statement that the resident attorney finds the applicant to be a reputable attorney and recommends his or her admission to practice before the court.

The judge may examine the nonresident attorney to satisfy himself that the nonresident attorney is aware of and will observe the ethical standards required of attorneys of this state. If the judge is not satisfied that the nonresident attorney is a reputable attorney and will observe the ethical standards required of attorneys in this state, he may in his discretion deny the motion.

Rule 95-9

If after admission to practice in this state, the nonresident attorney engages in professional misconduct as that term is defined by the rules governing the state bar of South Dakota, the admitting judge may revoke his or her admission to practice and may cite him or her for contempt. In addition, the admitting judge may refer the matter to the disciplinary board of the state bar or other proper authority as is deemed necessary and desirable.


The filing of a motion requesting admission to a court of this state by a nonresident attorney shall constitute his or her submission to the jurisdiction of the disciplinary board of the state bar and the county in which the court is located shall be considered the county of his or her residence for the purpose of determining venue in any disciplinary action taken against him or her.

The appearance of a nonresident attorney, unlicensed in the state of South Dakota, in an administrative hearing under SDCL ch. 1-26 shall be in accordance with the requirements of § 16-18-2 and subject to the approval of the circuit court for the county in which the hearing takes place or the circuit court for Hughes County, South Dakota.


IT IS FURTHER ORDERED that this rule shall become effective July 1, 1995.

DATED at Pierre, South Dakota, this 6th day of March, 1995.

BY THE COURT:


Robert A. Miller, Chief Justice

ATTEST:


Clerk of the Supreme Court
(SEAL)

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

MAR 06 1995


Clerk