

UNITED STATES COURT OF VETERANS APPEALS

Misc. No. 8-91

IN RE: RULE 46

Before NEBEKER, Chief Judge, and KRAMER, FARLEY, MANKIN,
HOLDAWAY, IVERS, and STEINBERG, Associate Judges.

O R D E R

In promulgating its Rules of Practice and Procedure effective May 1, 1991, the Court retained Interim General Rule 46 pending consideration of public comments on its proposed Rule 46. The Court has considered those comments and has benefited from the advice of its Admissions Committee and its Advisory Committee on Representation. It is

ORDERED that Rule 46 of this Court's Rules of Practice and Procedure is amended, effective October 1, 1991, to read as follows:

RULE 46. REPRESENTATION

(a) Admission of Attorneys to Practice.

(1) General. A person of good moral character and repute who has been admitted to practice in the Supreme Court of the United States, or the highest court of any state, the District of Columbia, or a territory, possession, or commonwealth of the United States, and is in good standing therein, may be admitted to the bar of this Court upon application.

(2) Application. An attorney at law may be admitted to the bar of the Court upon filing with the Clerk a completed application accompanied by the prescribed fee (payable by check or money order) and a current certificate from the clerk of the appropriate court showing that the applicant is a member in good standing of the bar of one of the courts named in subparagraph (1). A current court certificate is one executed within three months preceding the date of the filing of the application.

(b) Admission of Non-attorney Practitioners to Practice. A non-attorney of good moral character and repute

(1) under the direct supervision of an attorney admitted to the bar of the Court, or

(2) employed by an organization which is chartered by Congress, is recognized by the Secretary of Veterans Affairs for claims representation, and provides a statement signed by the organization's chief executive officer certifying to the employee's:

(A) understanding of the procedures and jurisdiction of the Court and of the nature, scope, and standards of its judicial review; and

(B) proficiency to represent appellants before the Court

may be admitted to practice before the Court upon filing with the Clerk a completed application accompanied by the prescribed fee (payable by check or money order). In making the certification in subparagraph (2), the chief executive officer should be aware that knowledge of and competence in veterans law and the administrative claims process does not in and of itself connote competence in appellate practice and procedure.

(c) Appearance in a Particular Case. On motion and upon a showing of good cause, the Court may permit any attorney or a non-attorney representative to appear before the Court for the purposes of a particular case.

(d) Appearance, Withdrawal, and Change of Address.

(1) Appearance. No attorney or non-attorney practitioner may participate in any proceedings in any case unless that individual has entered an appearance. The signing of a pleading or motion, or the physical appearance at oral argument, by an attorney or non-attorney practitioner constitutes an appearance by that individual as the representative in the case. The appearance must be accompanied by filing and service on all parties of a written statement that the representative is representing a designated client or clients, giving the name, address, and telephone number of the representative, and signed by him or her. In the case of a non-attorney practitioner, the name, address, and signature of the responsible supervising attorney (subparagraph (b)(1) of this rule) or the identification of the employing organization (subparagraph (b)(2) of this rule) must appear on the Notice of Appearance. Appearances may not be made in the name of a law firm or other organization. See sample Notice of Appearance at Form 3 in the Appendix of Forms.

(2) Withdrawal. A representative may not withdraw, leaving the client unrepresented, without the Court's permission upon motion and written notice to the client and all other parties who have appeared. The motion must describe the current or last known address or addresses of the client and the efforts made to notify the client of the motion to withdraw. The authority and duty of the representative will continue until he or she is relieved by order of the Court. Permission to withdraw may be granted subject to such conditions as the Court considers appropriate. This paragraph will not apply when a representative, without taking any other action, files a Notice of Appeal on behalf of an appellant under Rule 3(f).

(3) Change of address. Each representative and each party appearing on his or her own behalf has a continuing duty to notify

the Clerk and all other parties of any change of address or telephone number. Absent such notice, service of documents at the most recently provided address of that representative or party will be fully effective.

(e) Appearance by Law Students.

(1) An eligible law student, with the written consent of the appellant and the attorney of record, who must be a member of the bar of the Court, may appear in this Court.

(2) An eligible law student may participate in the preparation of briefs and other documents to be filed in this Court, but such briefs or documents must be signed by the attorney of record. The student may also participate in oral argument with leave of the Court, but only in the presence of the attorney of record. The attorney of record shall assume personal professional responsibility for the law student's work and for supervising the quality of his or her work. The attorney should be familiar with the case and prepared to supplement or correct any written or oral statement made by the student.

(3) In order to make an appearance pursuant to this rule, the student must:

(A) be duly enrolled in a law school approved by the American Bar Association;

(B) have completed legal studies amounting to at least four semesters, or the equivalent if studies are scheduled on other than a semester basis;

(C) be certified by the dean of the law school as being of good character and competent legal ability. This certification must be filed with the Clerk and may be withdrawn at any time by the dean, upon written notice to the Clerk, or by the Court, without notice of hearing and without any showing of cause;

(D) be introduced by the attorney of record in the case;


(E) neither ask for nor receive any compensation or remuneration of any kind for his or her services from the person on whose behalf such services are rendered, but this will not prevent an attorney, legal aid bureau, law school, a state, or the United States from paying compensation to the eligible law student, nor will it prevent any agency from making such charges for its services as it may otherwise properly require;

(F) certify in writing that he or she has read and is familiar with the code of professional responsibility or rules of professional conduct in effect in the state or jurisdiction in which the student's law school is located.

(f) Self-representation. Any appellant may appear and present his or her own case before the Court.

DATED: **SEP 19 1991**

BY THE COURT:


FRANK Q. NEBEKER
Chief Judge