

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2013

GORDON PHELPS KELLEY, III,
Petitioner,

v.

JOANNA KELLEY, individually and as Personal Representative of the Estate; **JOANNA KELLEY** and **NORTHERN TRUST BANK OF FLORIDA, N.A.**, as Co-Trustees of the Marital Trust created under the 2008 Will; **BANK OF NEW YORK, CAMILLE WEISS** and **ERRET VAN NICE**, as Co-Trustees of the Gordon P. Kelley, Jr. Agreement; **NORTHERN TRUST COMPANY, CAMILLE WEISS** and **ERRET VAN NICE**, as Co-Trustees of the Hortense Henry Prosser Agreement; **AMNESTY INTERNATIONAL OF THE U.S.A., INC., COUSTEAU SOCIETY; WORLD WILDLIFE FUND;** and the Class of Persons Referenced as “living great-nieces and great-nephews” of the Decedent,
Respondents.

No. 4D13-1113

[October 23, 2013]

PER CURIAM.

Petitioner challenges an order that denied his Louisiana attorney’s motion to appear *pro hac vice* in the underlying litigation. Because the motion was sufficient, and there were no legally sufficient reasons to deny the motion, we grant the petition for writ of certiorari.

Florida Rule of Judicial Administration 2.510(a) provides that a foreign attorney must file a verified motion to appear as counsel showing that he or she is a member in good standing of the bar of another state. The court may grant permission if the motion provides all of the information required by rule 2.510(b), if the foreign attorney is qualified under the rule, and if the foreign attorney has associated local counsel who is a member of The Florida Bar. The motion in this case provided all the necessary information, and the foreign attorney met all the qualifications.

Irreparable harm in denying the motion is two-fold. First, a party is deprived of counsel of choice. *Info. Sys. Assocs., Inc. v. Phuture World,*

Inc., 106 So. 3d 982, 984 (Fla. 4th DCA 2013). Second, the denial or revocation of counsel’s admission has future adverse consequences on the attorney. *Id.*; *see also Brooks v. AMP Servs. Ltd.*, 979 So. 2d 435, 437-38 (Fla. 4th DCA 2008).

The trial court’s view that the attorney needed to show a “special background,” suitable to the type of litigation in which the attorney appears, departs from the essential requirements of law. Neither the rule nor case law requires such a showing.

Although the trial court has discretion in determining whether to grant *pro hac vice* status, that discretion is not unlimited or absolute. *See Brooks*, 979 So. 2d at 439. “[T]he ruling should be based on matters that appear of record before the court.” *THI Holdings, LLC v. Shattuck*, 93 So. 3d 419, 423 (Fla. 2d DCA 2012) (quoting *Huff v. State*, 569 So. 2d 1247, 1249-50 (Fla. 1990)). “For example, something which casts doubt upon whether the applicant is actually a member of the bar of another jurisdiction or whether . . . the applicant is a member in good standing [within his designated jurisdiction] may support a denial of the motion.” *Id.* (quoting *Huff*, 569 So. 2d at 1250) (emphasis omitted). None of those reasons are apparent in this record.

Consequently, we grant the petition and quash the order that denied the motion to appear *pro hac vice*.

Petition granted.

WARNER, STEVENSON and MAY, JJ., concur.

* * *

Petition for writ of certiorari to the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Mel Grossman, Judge; L.T. Case No. PRC 10-0360.

Edward Downey of Downey & Downey, P.A., Palm Beach Gardens, and Law Offices of Ernest A. Burguieres, New Orleans, LA, for petitioner.

Bernard Allen and Frank T. Adams of Katz Barron Squitero Faust, Miami, and Douglas F. Hoffman of Rudolf & Hoffman, P.A., Fort Lauderdale, for respondents Joanna Kelley, Amnesty International of the U.S.A., Inc., World Wildlife Fund, and The Cousteau Society, Inc.

Not final until disposition of timely filed motion for rehearing.