

THE
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Move to Change Imposition of California Bar-Membership Requirement in the US District Court of the Northern District of California

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A February 6, 2018 Press Release details a movement to remove the requirement for attorneys seeking admission to the US District Court of the Northern District of California, to be licensed and active members of the California State Bar. The petitioners contend that it is unfair to require many out-of-state attorneys to pay an annual fee to the California Bar Association and sit for the California bar.

A group of 11 organizations, 10 of which are non-profit organizations, alongside two additional attorneys, and is led by Public Citizen Litigation Group, filed a petition with the court. In this petition they request that the California State Bar requirement be eliminated. The organizations represent interests of a diverse group of professionals who find this requirement to be unnecessary, costly, and burdensome to any non-California admitted attorney wishing to file a case in the Northern District.

In their petition, the primary argument that the California bar membership requirement be stricken, is because it is unnecessary '*for competent practice in Federal Court.*' The petitioner's reasoning is that many cases presented at the District Court level are **federal law issues**, not state law issues. Therefore, they contend that non-California admitted attorneys have the knowledge to present their clients' cases in good faith in these instances.

Other reasons in petitioning the court are cost and time based. Non-California bar admitted attorneys are required to pay an annual fee of \$410 to maintain their membership to the California State Bar Association, in addition to their own state membership dues. Further, out-of-state licensed attorneys have to prepare and sit for the California Bar Exam, only to try a limited number of cases each year.

Attorneys have an alternative route to try cases at the District level, which is a pro hac vice admission. Under a pro hac vice admission, attorneys must find local counsel for each case and attorney fees may need to be paid to a locally admitted attorney. Under a pro hac vice admission, non-admitted attorneys are required to pay a \$310 fee per case. This fee and any fees paid to local counsel are additional burdens and deterrents to attorneys who provide pro bono services.

So, what's the alternative approach? The petitioners suggest that attorneys should have the opportunity to bring their case to the District Court upon submission of an application stating that they are a member in good standing of a state bar, along with the signed statement of a sponsor. This is what is required for attorneys to bring a case in front of the US Supreme Court.

Alan B. Morrison, who is lead counsel behind the petition, goes onto note that: “This petition follows the many successful efforts by Public Citizen Litigation Group to eliminate burdensome and anti-competitive rules that harm members of the public in their efforts to find affordable legal services and protect their rights.” Morrison is the Lerner Family Associate Dean for Public Interest Law at George Washington University Law School. He is also co-founder, and former director of the Public Citizen Litigation Group. Morrison states “Regardless of whether the requirement that a lawyer must be a member of the local state bar to practice in a particular federal court were ever justified, it is not today.”

The petitioners note that there are similar admission requirements at the District Level in the Ninth Circuit and in other state court systems. Allison Zieve, the director of Public Citizen Litigation Group, added “We hope the Northern District grants the petition and it will serve as precedent for federal courts with similar requirements nationwide.”

In the event the petition is denied by the court, the petitioners could move forward and seek review from the Ninth Circuit’s Judicial Council. The Chief Judge of the Circuit, and an equal number of District Court and Circuit Court Judges, would make up the review-panel, in the event a review was requested.

The petitioners include: Public Citizen Litigation Group, American Civil Liberties Union, Association of Corporate Counsel, Cato Institute, Center for Constitutional Litigation, Competitive Enterprise Institute’s Center for Class Action Fairness, Consumers for a Responsive Legal System, Earthjustice, Natural Resources Defense Council, Pacific Legal Foundation and Public Justice, and attorneys Robert S. Peck and John Vail.

For those who are interested in reading the petition, it is available [here](#).