

NORTH CAROLINA COURT OF APPEALS

CHESTER TAYLOR III, RONDA and)
BRIAN WARLICK, LORI MENDEZ,)
LORI MARTINEZ, CRYSTAL PRICE,)
JEANETTE and ANDREW ALESHIRE,)
MARQUITA PERRY, WHITNEY)
WHITESIDE, KIMBERLY STEPHAN,)
KEITH PEACOCK, ZELMON MCBRIDE,))

From Mecklenburg County
No. 18-CVS-8266

Appellants,)

v.)

BANK OF AMERICA, N.A.,)

Appellee.)

MOTION FOR ADMISSION *PRO HAC VICE*

NOW COMES Appellee Bank of America, N.A. (“Appellee”), through counsel, and hereby move this Court for admissions *pro hac vice* for Keith Levenberg and James McGarry to represent the Appellee in this case.

Pursuant to Rule 33(d) of the North Carolina Rules of Appellate Procedure and Section 84-4.1 of the North Carolina General Statutes, Appellee hereby requests that its attorneys, Keith Levenberg and James McGarry be allowed to appear *pro hac vice* in this appeal. In support of this motion, Appellee shows the Court as follows.

Keith Levenberg is duly licensed, in good standing, and regularly admitted to practice in the District of Columbia, Bar No. 1007558 and the State of New York, Bar No. 4183471. The Affidavit of Keith Levenberg, attached hereto as Exhibit A, sets for Mr. Levenberg's qualifications to appear in this case pursuant to N.C. Gen. Stat. § 84-4.1.

Keith Levenberg practices with Goodwin Procter LLP and his address is 901 New York Avenue, Northwest Washington, D.C. 20001.

Keith Levenberg has not been publicly disciplined by any court or lawyer regulatory organization, and he has not had any prior *pro hac vice* admissions revoked.

The District of Columbia and the State of New York, in which Keith Levenberg is regularly admitted to practice, grants like privileges (*pro hac vice* admissions) to members of the North Carolina State Bar in good standing.

James McGarry is duly licensed, in good standing, and regularly admitted to practice in the State of Massachusetts, Bar No. 633726, the State of New Jersey Bar No. 027951993, and the State of Pennsylvania, Bar No. 70633. The Affidavit of James McGarry, attached hereto as Exhibit B, sets forth Mr. McGarry's qualifications to appear in this case pursuant to N.C. Gen. Stat. § 84-4.1.

James McGarry practices with Goodwin Procter LLP and his address is 100 Northern Avenue Boston, Massachusetts 02210.

James McGarry has not been publicly disciplined by any court or lawyer regulatory organization, and he has not had any prior *pro hac vice* admissions revoked.

The States of Massachusetts, New Jersey, and Pennsylvania, in which James McGarry is regularly admitted to practice, grants like privileges (*pro hac vice* admissions) to members of the North Carolina State Bar in good standing.

Keith Levenberg and James McGarry associated and are personally appearing (subject to approval of the Court) in the above-captioned case with Bradley Kutrow. Bradley Kutrow is a resident of the State of North Carolina, has agreed to be responsible for filing a registration statement with the North Carolina State Bar, and is duly and legally admitted to practice in the General Court of Justice of North Carolina and this Court. Service may be had upon Bradley Kutrow in all matters connected with this action with the same effect as if personally made on Keith Levenberg and James McGarry within this State.

Unless permitted to withdraw sooner by order of the Court, Keith Levenberg and James McGarry will continue to represent Appellee in this proceeding until its final determination, and with reference to all matters incident to the proceeding, Keith Levenberg and James McGarry agree to be subject to the orders and amenable to the disciplinary action and the civil jurisdiction of the Court and the North Carolina State Bar in all respects as if they were a regularly admitted and licensed member of the Bar of North Carolina in good standing.

Attached hereto as Exhibit C is the signed client statement for Appellee in support of this motion.

Also enclosed are two checks in the amount of Two Hundred Twenty-Five Dollars and 00/100 (\$225.00) made out to the Clerk of the North Carolina Court of Appeals.

WHEREFORE, Appellees request that their motion be allowed and that Keith Levenberg and James McGarry be permitted to represent it before this Court in this proceeding

This the 18th day of June, 2020.

MCGUIREWOODS, LLP

By: /s/ Bradley R. Kutrow
Bradley R. Kutrow
N.C. Bar No. 13851
Caroline E. Keen
N.C. Bar No. 50809
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bkutrow@mcguirewoods.com
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By: /s/ Keith Levenberg
Keith Levenberg (pro hac vice)
GOODWIN PROCTER LLP
901 New York Avenue, Northwest
Washington, D.C. 20001
Tel.: (202) 346-4000
Fax: (202) 346-4444
klevenberg@goodwinlaw.com

By: /s/ James W. McGarry
James W. McGarry (pro hac vice)
GOODWIN PROCTER LLP
100 Northern Avenue
Boston, Massachusetts 02210
Tel.: (617) 570-1000
Fax: (617) 523-1231
jmcgarry@goodwinlaw.com

Counsel for Appellee Bank of America, N.A.

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that the foregoing was served via First Class Mail, postage prepaid, on 18 June 2020 on counsel for Appellants at the below listed addresses:

William C. Robinson
Dorothy M. Gooding
Robinson Elliott & Smith
P.O. Box 36098
Charlotte, NC 23236

Justin Witkin (*pro hac vice*)
Chelsie Warner (*pro hac vice*)
Caitlyn Miller (*pro hac vice*)
Daniel Thornburgh (*pro hac vice*)
Aylstock, Witkin, Kreis & Overholtz, PLLC
17 East Main Street, Suite 200
Pensacola, FL 32502

This the 18th day of June, 2020.

/s/ *Bradley R. Kutrow*
Bradley R. Kutrow

EXHIBIT A

NORTH CAROLINA COURT OF APPEALS

CHESTER TAYLOR III, RONDA and)
BRIAN WARLICK, LORI MENDEZ,)
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MARQUITA PERRY, WHITNEY)
WHITESIDE, KIMBERLY STEPHAN,)
KEITH PEACOCK, ZELMON MCBRIDE,))

From Mecklenburg County
No. 18-CVS-8266

Appellants,)

v.)

BANK OF AMERICA, N.A.,)

Appellee.)

AFFIDAVIT OF KEITH LEVENBERG

I, Keith Levenberg, being duly sworn, depose and testify as follows:

1. I am a member of the law firm of Goodwin Procter LLP. My mailing address is 1900 N Street, N.W., Washington, D.C. 20036. I make and submit the Affidavit in support of my Motion for Admission Pro Hac Vice in the above captioned case.

2. I have been retained to represent Appellee in the above captioned case.

3. I am a member in good standing of the bars of the District of Columbia (number 1007558) and the State of New York (number 4183471).

4. I am not under any restriction or probation in the practice of law in any jurisdiction in which I am licensed.

5. I am not presently nor have I been disciplined, suspended or disbarred for any misconduct from any court in any jurisdiction.

6. Unless permitted to withdraw by order of the Court, I will continue to represent Appellee in these proceedings until their final determination and, with reference to all matters incident to this proceeding, I agree to be subject to the orders and amenable to the disciplinary action and the civil jurisdiction of the General Court of Justice and the North Carolina State Bar in all respects as if I were a regularly admitted and licensed member of the Bar of North Carolina in good standing.

7. The District of Columbia and the State of New York grant like privileges to members of the Bar of North Carolina in good standing.

8. I have associated with and am personally appearing in the proceeding with Bradley R. Kutrow of the law firm of McGuireWoods LLP. Mr. Kutrow is an attorney and resident of this State, is duly and legally admitted to practice in the General Court of Justice of North Carolina, upon whom service may be had in all matters connected with the legal proceedings, or any disciplinary matter, with the same effect as if personally made on me. Mr. Kutrow has agreed to be responsible for timely filing a registration statement with the North Carolina State Bar.

9. In light of the COVID-19 pandemic, the undersigned is working remotely and under a mandatory stay-at-home order issued by the District of

Columbia. As such, the undersigned is unable to sign this in the presence of a notary at this time. Should the Court require a signature made in a notary's presence, the undersigned will do so as soon as possible.

/s/ *Keith Levenberg*
Keith Levenberg

EXHIBIT B

NORTH CAROLINA COURT OF APPEALS

CHESTER TAYLOR III, RONDA and)	
BRIAN WARLICK, LORI MENDEZ,)	
LORI MARTINEZ, CRYSTAL PRICE,)	
JEANETTE and ANDREW ALESHIRE,)	
MARQUITA PERRY, WHITNEY)	
WHITESIDE, KIMBERLY STEPHAN,)	<u>From Mecklenburg County</u>
KEITH PEACOCK, ZELMON MCBRIDE,)	No. 18-CVS-8266
)	
Appellants,)	
)	
v.)	
)	
BANK OF AMERICA, N.A.,)	
)	
Appellee.)	

AFFIDAVIT OF JAMES McGARRY

I, James McGarry, being duly sworn, depose and testify as follows:

1. I am a member of the law firm of Goodwin Procter LLP. My mailing address is 100 Northern Avenue Boston, MA 02210. I make and submit the Affidavit in support of my Motion for Admission Pro Hac Vice in the above captioned case.

2. I have been retained to represent Appellee in the above captioned case.

3. I am a member in good standing of the State of Massachusetts (admitted on December 19, 1996, Bar No. 633726), the State of New Jersey

(admitted on December 21, 1993, Bar No. 027951993), and the State of Pennsylvania (admitted on December 10, 1993, Bar No. 70633).

4. I am not under any restriction or probation in the practice of law in any jurisdiction in which I am licensed.

5. I am not presently nor have I been disciplined, suspended or disbarred for any misconduct from any court in any jurisdiction.

6. Unless permitted to withdraw by order of the Court, I will continue to represent Appellee in these proceedings until their final determination and, with reference to all matters incident to this proceeding, I agree to be subject to the orders and amenable to the disciplinary action and the civil jurisdiction of the General Court of Justice and the North Carolina State Bar in all respects as if I were a regularly admitted and licensed member of the Bar of North Carolina in good standing.

7. Massachusetts, New Jersey and Pennsylvania grants like privileges to members of the Bar of North Carolina in good standing.

8. I have associated with and am personally appearing in the proceeding with Bradley R. Kutrow of the law firm of McGuireWoods LLP. Mr. Kutrow is an attorney and resident of this State, is duly and legally admitted to practice in the General Court of Justice of North Carolina, upon whom service may be had in all matters connected with the legal proceedings, or any disciplinary matter, with the same effect as if personally made on me. Mr. Kutrow has agreed to be responsible for timely filing a registration statement with the North Carolina State Bar.

9. In light of the COVID-19 pandemic, the undersigned is working remotely and under a mandatory stay-at-home order issued by the State of Massachusetts. As such, the undersigned is unable to sign this in the presence of a notary at this time. Should the Court require a signature made in a notary's presence, the undersigned will do so as soon as possible.

/s/ *James McGarry*
James McGarry

EXHIBIT C

NORTH CAROLINA COURT OF APPEALS

CHESTER TAYLOR III, RONDA and)
BRIAN WARLICK, LORI MENDEZ,)
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STATEMENT OF RETENTION

NOW COMES Appellee Bank of America, N.A., whose headquarters is located at 100 N. Tryon Street, Charlotte, North Carolina, 28255, and hereby declares that it has retained Attorneys Keith Levenberg and James McGarry and Goodwin Procter LLP to represent it in the above-captioned action, based on their specific experience and qualifications, along with Bradley R. Kutrow and McGuireWoods, LLP.



James J. Ciccone
Associate General Counsel
and Senior Vice-President
Bank of America, N.A.
Los Angeles, California