

STATE OF NORTH CAROLINA
BUNCOMBE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
25CV000809-100

IN RE ASHEVILLE EYE
ASSOCIATES DATA INCIDENT
LITIG.

**ORDER REVOKING *PRO HAC VICE*
ADMISSION OF RAINA C. BORRELLI**

THIS MATTER is before the Court on its *sua sponte* reconsideration of its prior Order granting Raina C. Borrelli admission *pro hac vice* in this litigation. Having considered all appropriate matters of record, the Court **CONCLUDES**, in its discretion, that Borrelli’s *pro hac vice* status should be **REVOKED** for the reasons set forth below.

1. Plaintiff Robert Ricchetti initiated one of the underlying lawsuits comprising this consolidated action—captioned *Ricchetti v. Asheville Eye Assocs., PLLC*—by filing a Complaint in Buncombe County Superior Court on 7 February 2025 asserting various claims for monetary relief against Defendant Asheville Eye Associates, PLLC. (*See Ricchetti v. Asheville Eye Assocs., PLLC*, Buncombe Cnty. Super. Ct. File No. 25CV000863-100, ECF No. 3.)

2. The Complaint was electronically signed by North Carolina attorney Scott C. Harris of the law firm Milberg Coleman Bryson Phillips Grossman, PLLC and listed two out-of-state attorneys as additional counsel with the denotation “*Pro hac vice forthcoming*”—Borrelli and Samuel J. Strauss of the law firm Strauss Borrelli PLLC.

3. On 30 April 2025, Ricchetti filed a Motion for Raina C. Borrelli to Appear *Pro Hac Vice* (“PHV Motion”), requesting that Borrelli be admitted *pro hac vice* for the purpose of representing him in this action. (See *Ricchetti v. Asheville Eye Assocs., PLLC*, Buncombe Cnty. Super. Ct. File No. 25CV000863-100, ECF No. 18.)

4. In the Motion, Borrelli represented that she has previously been admitted to practice *pro hac vice* in North Carolina state and federal courts in the following eight cases during the preceding five years:

- a. *Pope v. Benson Area Med. Ctr., Inc.*, Johnston Cnty. Super. Ct. File No. 22CVS002873-500;
- b. *Lamie v. LendingTree, LCC*, W.D.N.C. File No. 3:22-CV-307-FDW-DCK;
- c. *Huffman v. CommScope, Inc. of N.C.*, W.D.N.C. File No. 5:23-CV-132-KDB-SCR;
- d. *Capiau v. Ascendum Mach., Inc.*, W.D.N.C. File No. 3:24-CV-142-MOC-SCR;
- e. *Woodall v. Octapharma Plasma, Inc.*, W.D.N.C. File No. 3:24-CV-424-MOC-SCR;
- f. *Cherry v. Carolina Bev. Grp., LLC*, W.D.N.C. File No. 5:24-CV-148-KDB-SCR;
- g. *Stewart v. Greensboro Coll., Inc.*, Guilford Cnty. Super. Ct. File No. 24CVS004980-400; and

h. *Doughtery v. Bojangles' Rest., Inc.*, W.D.N.C. Fil No. 3:25-CV-65-FDW-DCK.

5. On 9 May 2025, this Court entered an Order (“PHV Order”) granting the PHV Motion based on its finding that Borrelli had satisfied the statutory requirements of N.C.G.S. § 84-4.1, which governs *pro hac vice* admission. (See *Ricchetti v. Asheville Eye Assocs., PLLC*, Buncombe Cnty. Super. Ct. File No. 25CV000863-100, ECF No. 20). The Court’s findings in the PHV Order were based on its reliance on the accuracy of the representations made by Borrelli in the PHV Motion.

6. That same day, the Court also entered an Order consolidating *Ricchetti v. Asheville Eye Assocs., PLLC* into the above-captioned case and appointing Gary M. Klinger of the law firm Milberg Coleman Bryson Phillips Grossman, PLLC as interim putative class counsel. (ECF No. 23.)

7. Subsequently, on 2 July 2025, Harris filed a Supplement to Motion for Raina C. Borrelli to Appear *Pro Hac Vice* (“PHV Supplement”). (See *Ricchetti v. Asheville Eye Assocs., PLLC*, Buncombe Cnty. Super. Ct. File No. 25CV000863-100, ECF No. 22.) The PHV Supplement was signed electronically by both Harris and Borrelli.

8. In the PHV Supplement, Harris informed the Court that the information contained in the PHV Motion—specifically as it relates to Borrelli’s history of prior *pro hac vice* admissions in the state and federal courts of North Carolina—was incomplete. In addition to the above-listed cases contained in the PHV Motion, Harris

advised the Court that Borrelli has also been admitted *pro hac vice* in the following additional cases during the preceding five years:

- a. *Thomas v. One Day Roofing*, W.D.N.C. File No. 3:21-643-FDW-DCK;
- b. *Farley v. Eye Care Leaders Holdings, LLC*, M.D.N.C. File No. 1:22-CV-468-CCE-JLW;
- c. *Forrester v. Eye Care Leaders Holdings, LLC*, M.D.N.C. File No. 1:22-CV-503-CCE-JLW;
- d. *Kocher v. Builders Mut. Ins. Co.*, E.D.N.C. File No. 5:23-CV-579-M-KS;
- e. *Panighetti v. Intelligent Bus. Sols., Inc.*, M.D.N.C. File No. 1:23-CV-209-LCB-JLW;
- f. *Brooks v. Golden Corral Corp.*, E.D.N.C. File No. 5:24-CV-129-D;
and
- g. *In re: Golden Corral Data Breach Litig.*, E.D.N.C. File No. 5:24-CV-123-M-BM.

9. The PHV Supplement states—without further explanation—that the failure to include these cases in the original PHV Motion was the result of an “inadvertent error.”

10. It is well-established that the “admission of counsel in North Carolina *pro hac vice* is not a right[,] but a discretionary privilege.” *Smith v. Beaufort Cnty. Hosp. Ass’n*, 141 N.C. App. 203, 209 (2000) (cleaned up), *aff’d per curiam*, 354 N.C.

212 (2001). Once granted, the privilege to practice *pro hac vice* “may be summarily revoked by the General Court of Justice . . . on its own motion and in its discretion.” N.C.G.S. § 84-4.2; *see also Couch v. Priv. Diagnostic Clinic*, 146 N.C. App. 658, 663 (2001) (noting that “a trial court’s revocation of an attorney’s ability to practice *pro hac vice* is reviewed under an abuse of discretion standard” (cleaned up)). Such broad authority is afforded to North Carolina courts as “a means to control out-of-state counsel and to assure compliance with the duties and responsibilities of attorneys practicing in this State.” *Smith*, 141 N.C. App. at 209 (cleaned up).

11. The statute governing the admission of counsel *pro hac vice*—N.C.G.S. § 84-4.1—forbids the courts of this State from allowing nonresident attorneys who are not licensed in North Carolina from practicing habitually in our courts. *See State v. Hunter*, 290 N.C. 556, 568 (1976), *cert. denied*, 429 U.S. 1093 (1977).

12. Combining the eight prior *pro hac vice* admissions identified in the PHV Motion with the seven additional *pro hac vice* admissions identified in the PHV Supplement, the record currently before the Court reveals that Borrelli has been granted *pro hac vice* status in at least *fifteen* other North Carolina state and federal cases within the last five years.

13. The Court has no reason to doubt the assertion in the PHV Supplement that Borrelli’s failure to include the remaining seven *pro hac vice* admissions in her original PHV Motion was unintentional. Nevertheless, the fact remains that had the Court been aware of the seven additional *pro hac vice* admissions at the time it entered its PHV Order, it would have denied the PHV Motion.

14. Based on the updated record currently before it, the Court, in its discretion, concludes that Borrelli's *pro hac vice* admission in this case despite her having appeared *pro hac vice* in at least fifteen cases in North Carolina state or federal courts within the five years would constitute habitual practice under N.C.G.S. § 84-4.1.

THEREFORE, Raina C. Borrelli's admission to practice *pro hac vice* in this matter is hereby **REVOKED**. A copy of this Order will be sent by the Court to the North Carolina State Bar.

SO ORDERED, this the 24th day of July 2025.

/s/ Mark A. Davis

Mark A. Davis
Special Superior Court Judge for
Complex Business Cases