

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA

FILED
U.S. Bankruptcy Court
Western District of NC

MAR 02 2006

David E. Welsh, Clerk
Charlotte Division
ABW

JUDGMENT ENTERED ON MAR 02 2006

IN RE:)	
)	
BERNARD L. LEVINER)	ADMINISTRATIVE
)	ORDER APPROVING
)	ADMISSION OF BERNARD LEVINER
ATTORNEY)	PRO HOC VICE
)	TO APPEAR ON BEHALF
)	OF JAMES B. MALLORY III

AN APPLICATION by James B. Mallory III, (NC No. 12479) and Bernard L. LeViner (NY No. 1720044) for permission from this Court for the admission *pro hoc vice* of Bernard L. LeViner to the Bankruptcy Court for the Western District of North Carolina and to the United States District Court (WDNC) pursuant to Rule 2090-2, having come before this Court; and

IT APPEARING TO THE COURT THAT:

1. A Notice of Opportunity of Hearing was filed on February 15, 2006 and served upon the standing Trustees and Bankruptcy Administrator and that no opposition to the application has been timely filed, and

2. Upon written and oral representations by the Applicant James B. Mallory III, NC Bar # 12479, in the instant motion for *pro hoc vice* admission of Bernard L. LeViner to appear on behalf of attorney James B. Mallory III in matters before the Bankruptcy Court for the Western District of North Carolina, the

Court finds that the application is warranted under the exigent circumstances outlined in the motion, specifically that

a) the Applicant is a sole practitioner engaged in the practice of law since 1984 and as a Brigadier General in the United States Army Reserve has been notified of his imminent mobilization and deployment in support of Operation Iraqi Freedom from March 2006 until July of 2007, and

b) Bernard L. LeViner is a licensed attorney in the State of New York, NY Bar # 1720044, having been admitted to the Bankruptcy Court for the Western District of New York where he practiced Bankruptcy Law, and is a member in good standing of the New York Bar, having maintained all professional credentials and who is presently filing for admission to the North Carolina Bar by Comity, and

c) Bernard L. LeViner has heretofore been employed as a legal assistant under the supervision by the Applicant since June 2004 performing duties which include client intake, budget analysis, petition preparation, client relations and drafting of pleadings, and

d) Licensed North Carolina attorneys J.

Pressly Mattox, a former law partner of the Applicant co-located in the same office building as the Applicant, and Julie M. Luckey of Winston-Salem, North Carolina and Robert H. Gourley, Jr. of Statesville, North Carolina are available as resources for supervision, assistance and representation in matters beyond Bernard L.

LeViner's scope of practice and appearances before the Bankruptcy Court as hereinafter outlined; and

e) For the continued efficient administration of numerous open cases, and to provide continued opportunities to service new clients who are in need of potential bankruptcy services, it is in the best interests of all parties that the Law Office of James B. Mallory III continue to service clients and that service will be enhanced through the appearance by Bernard L. LeViner, *pro hoc vice*, as outlined hereinbelow.

BASED ON THE FOREGOING, IT IS THEREFORE ORDERED,

ADJUDGED AND DECREED that said application for the admission *pro hoc vice* of Bernard L. LeViner to appear on behalf of James B. Mallory III in the Bankruptcy Court for the Western District of North Carolina is granted under the following terms and conditions:

1. That Bernard L. LeViner may appear in Court on behalf of James B. Mallory III in all cases and controversies heard before a Judge presiding in the Bankruptcy Court for Western District of North Carolina; and

2. That Bernard L. LeViner may appear on behalf of James B. Mallory III at Section 341 Meetings and Dismissal Hearings presided over by any Chapter 7 or Chapter 13 Trustee for the Wilkesboro, Charlotte and Shelby Divisions for the Western District of North Carolina; and

3. That Bernard L. LeViner may associate as needed outside counsel to appear in any matter; and

4. That Bernard L. LeViner is authorized to sign all pleadings, petitions and other required documents as needed to engage and represent clients on behalf of James B. Mallory III before the Bankruptcy Court for the Western District of North Carolina; said signature to be Bernard L. Livener, for James B. Mallory III or James B. Mallory III/BLL; and

5. That for the purposes of service of process and notice in all matters for the Law office of James B. Mallory III the current mailing address, phone numbers, facsimile number, and email addresses on file with the Court shall remain unchanged.

6. That *pro hoc vice* admission of Bernard L. LeViner is granted pending his application for admission to the North

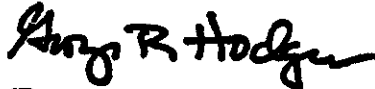
Carolina Bar by Comity and in no event shall it extend beyond the anticipated release from active duty in the United States Army of James B. Mallory III, anticipated to be in July 2007.

7. That this Administrative Order shall be referenced in all filings and pleadings executed by Bernard L. LeViner on behalf of James B. Mallory III.



(Dated as of date entered)

J. Craig Whitley
Chief United States Bankruptcy Judge



(Dated as of date entered)

George R. Hodges
United States Bankruptcy Judge



(Dated as of date entered)

Marvin R. Wooten
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
WILKESBORO DIVISION**

IN RE:)	
)	
BERNARD L. LEVINER)	
)	
)	MOTION TO SUBSTITUTE
)	ATTORNEY - FOR ADMISSION
ATTORNEY)	PRO HOC VICE

NOW COMES, James B. Mallory III, (NC No. 12479) and Bernard L. LeViner (NY No. 1720044) who pursuant to Local Rule 2090-2 of the Bankruptcy Court, Western District of North Carolina, and Local Rule 83.1 of the United States District Court, Western District of North Carolina, seek permission from this Court for the admission pro hoc vice of Bernard L. LeViner to the Bankruptcy Court, Western District of North Carolina and to the United States District Court (WDNC) by way of Rule 2090-2, and allege as follows in support of their application:

1. Bernard L. LeViner is an attorney duly admitted to the Supreme Court of the State of New York in 1981 and he has been duly admitted to the United States Bankruptcy Court, Western District of New York in 1981. That upon information and belief, the source being phone conversation with the clerks of said courts, Bernard LeViner is a member in good standing in both courts. That James B. Mallory III is an attorney duly admitted to the Supreme Court of the State of North Carolina in 1984 and has been duly admitted to the United States Bankruptcy Court, Western District of North Carolina, since 1984. That James B. Mallory III is a member in good standing in both courts.

2. That since June of 2004 Mr. LeViner has been employed as a legal assistant and administrative aide by Mr. Mallory, and he has been supervised by Mr. Mallory in his conduct and activities in the performance of bankruptcy work and necessary and related activities since June of 2004. It was the original intent of Mr. LeViner and Mr. Mallory that the extent of Mr. LeViner's employment was to extend only to legal assistant and administrative aide duties for Mr. Mallory.

3. Mr. Mallory is a Brigadier General in the United States Army Reserve and as part of his duties and responsibilities to the Army Reserve Mr. Mallory has been assigned to war-time duty in Iraq. Mr. Mallory is currently waiting for deployment orders.

4. It has become necessary therefore for Mr. LeViner to seek admission pro hoc vice to this Court both for the reason of needed substitutions for Mr. Mallory's current cases and for the prosecution of cases that come into Mr. Mallory's office pending his return. In addition, Mr. LeViner is seeking admission to the North Carolina Bar and then admission to the Bankruptcy Court, Western District of North Carolina, pending Mr. Mallory's return. The exact assignment for Mr. Mallory in Iraq and the length of time that Mr. Mallory will be deployed are as yet uncertain. Due to Mr. LeViner's familiarity with Mr. Mallory's office, his familiarity with the Bankruptcy Code (both before and after October 17, 2005), and Mr. LeViner's twenty-five (25) years of experience in the bankruptcy field it will be more efficient and less disruptive for Mr. Mallory's bankruptcy practice that this Court, in its discretion, grant special permission to Mr. LeViner to appear on behalf of Mr. Mallory in his bankruptcy cases.

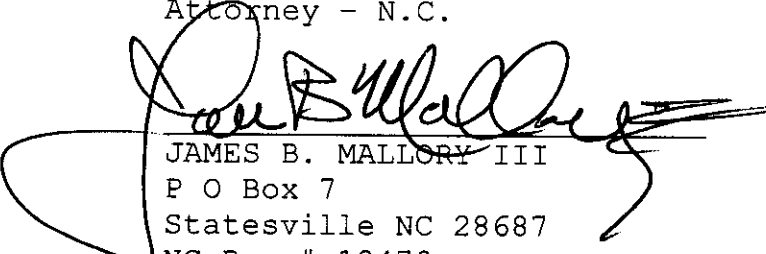
5. That Mr. Mallory has contacted the Authorized Practice Committee for the North Carolina Bar regarding these circumstances and has asked for input from the Committee. Mr. LeViner's activities will be limited to those areas within, and necessary to, the practice of bankruptcy law. Mr. LeViner will also associate with and be supervised as needed by attorney J.Pressly Mattox (NC No.10996), who was a partner with Mr. Mallory for over twenty (20) years, and whose office is located in the same building with Mr. Mallory. Mr. Mallory and Mr. Mattox are also partners in a real estate partnership. Mr. Mallory will be able to associate himself with Mr. LeViner through electronic e-mail available to Mr. Mallory while in Iraq.

6. Applicants pro hoc vice admission fee has been paid to this Court as part of this application.

WHEREFORE, the applicants move this Court for an Order: (1) Granting pro hoc vice admission to Bernard L. LeViner, Esq. in this Court, and (2) for such other and further relief as the Court considers appropriate.

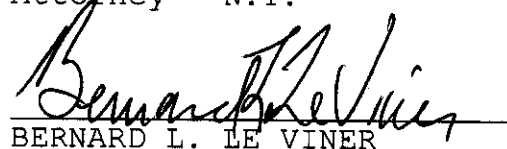
Dated: February 15, 2006

JAMES B. MALLORY III
Attorney - N.C.



JAMES B. MALLORY III
P O Box 7
Statesville NC 28687
NC Bar # 12479
(704) 872-1911
FAX: (704) 872-5776

BERNARD L. LE VINER
Attorney - N.Y.



BERNARD L. LE VINER
P O Box 7
Statesville, NC 28687
NY Bar # 1720044
(704) 872-1911
FAX: (704) 872-5776

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
WILKESBORO DIVISION

IN RE:)
)
BERNARD L. LEVINER) AFFIDAVIT IN SUPPORT OF
) APPLICATION FOR SUBSTITUTE
) ATTORNEY - ADMISSION
ATTORNEY) PRO HOC VICE
)

NOW COMES James B. Mallory III, who duly sworn states as follows:

1. I am an attorney duly admitted to both the Bar of the State of North Carolina and the Bankruptcy Court, Western District of North Carolina. My Bar number is 12479.

2. I am in good standing in both court systems and I have a law practice at 102 West Broad St., Statesville, NC 28677 where I have been in the practice of law since 1984. I concentrate in the field of consumer bankruptcy which constitutes over ninety (90) per cent of my practice. My staff consists of two paralegals, one receptionist, and a legal assistant. Bernard L. LeViner has been employed by my office as my legal assistant since June of 2004. This affidavit is in support of his application for admission *pro hoc vice* to the Bankruptcy Court, Western District of North Carolina and to the United States District Court (WDNC) by way of Rule 2090-2.

3. I have been a member of the United States Army Reserve for twenty-eight (28) years and my rank is that of Brigadier General. I am presently the Assistant Division Commander of the 108th Division headquartered in Charlotte, NC. My unit has

been assigned to duty in Iraq in support of Operation Iraqi Freedom. I was on temporary assignment in Iraq in the month of January 2006 and I am expecting new deployment orders to be issued for my deployment to Iraq in March of 2006. The length of my service in Iraq has not as yet been determined, but will likely extend through July 2007.

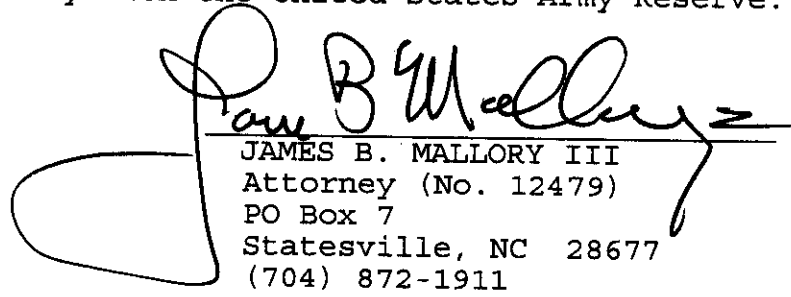
4. Upon information and belief, the source being conversation with Bernard L. LeViner and my own investigation of his background, Mr. LeViner is a licensed attorney in the State of New York (No. 1720044) and he is a member in good standing in the Bankruptcy Court, Western District of New York. My experience with Mr. LeViner indicates that he is qualified, in my opinion, to conduct bankruptcy matters in this jurisdiction for my practice, and in my absence.

5. Due to the timing in this situation and especially due to the uncertainty of my deployment dates and the unknown period(s) of my service overseas; the difficulty in locating and hiring substitute counsel for my practice familiar with my office procedures; and the knowledge and experience of Mr. LeViner in the bankruptcy field it is my opinion that my practice and my clients would be more efficiently served by allowing Mr. LeViner to represent my clients in Bankruptcy Court during my absence.

6. Mr. LeViner will request admission to the North Carolina Bar by way of comity application but that application will be held several months and will not be resolved prior to my deployment. As an alternative, I could associate outside counsel, Julie Luckey of Winston-Salem, but her ongoing part time

affiliation would be less efficient and more costly to all concerned.

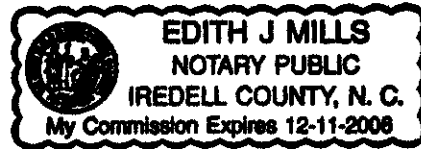
WHEREFORE, I pray this court grants our application and that Bernard L. LeViner be admitted to this court *pro hoc vice* while I serve in active military duty with the United States Army Reserve.


JAMES B. MALLORY III
Attorney (No. 12479)
PO Box 7
Statesville, NC 28677
(704) 872-1911

Sworn to before me this 15th day
of February, 2006.



Notary Public



THE UNITED STATES OF AMERICA



WESTERN District of NEW YORK

I, Michael J. Kaplan, Clerk of the United States
Bankruptcy Court for the Western District of New York, do
hereby certify that

BERNARD L. DE VINER

was duly admitted and qualified as an Attorney and Counselor of said Bankruptcy
Court on the 4th day of May, A. D., 1981

In testimony whereof, I hereunto set my hand and affix the
seal of said Court, at my office in Rochester
in the Western District of New York,
this 4th day of May, A. D., 1981

Michael J. Kaplan, Clerk.



New York State Attorney Directory - Search Detail

Search Results:

First Name: **bernard**

Last Name: **leviner**

Total number of records found: **1**

Attorney Name <i>(Click name for details)</i>	Registration Number	City	State	Year Admitted
BERNARD L. LEVINER	1720044	ONTARIO	NY	1981

If the name of the attorney you are searching for does not appear, please try again with a different spelling. In addition, please be advised that attorneys listed in this database are listed by the name that corresponds to their name in the Appellate Division Admissions file. There are attorneys who currently use a name that differs from the name under which they were admitted. If you need additional information, please contact the NYS Office of Court Administration, Attorney Registration Unit at 212-428-2800.

New York State Office of Court Administration

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
WILKESBORO DIVISION

IN RE:)
)
BERNARD L. LEVINER)
)
) NOTICE OF OPPORTUNITY
) FOR HEARING
) (No-Protest Notice: No
) Hearing Will Be Held
Debtor) Unless Request For
) Hearing Is Filed)
)

TAKE NOTICE that BERNARD L. LEVINER has filed with the Court a Motion to Substitute Attorney - For Admission Pro Hoc Vice. A copy of these paper(s) are included with this Notice.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the Court to order a Motion to Substitute Attorney - For Admission Pro Hoc Vice, or if you want the Court to consider your views on the motion, then on or before fifteen (15) days from the date of this Notice, (March 2, 2006) you or your attorney must do three (3) things:

File with the Court a written response requesting that the Court hold a hearing and explaining your position. File response at U.S. Bankruptcy Court, Western District of North Carolina, P O Box 34189, Charlotte, NC 28234-4189.

If you mail your request to the Court for filing, you must mail it early enough so the Court will receive it on or before the date stated above.

On or before the date stated above for written responses, you must also mail or fax a copy of your written request to:

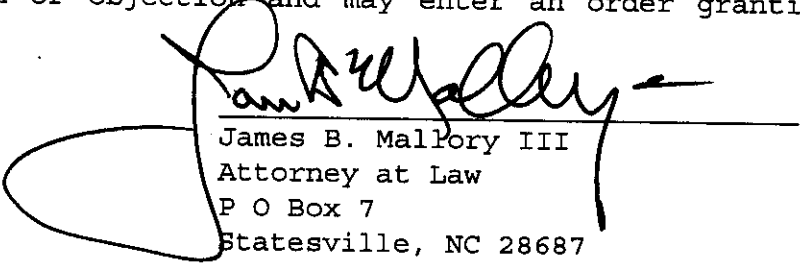
James B. Mallory III
P O Box 7
Statesville, NC 28687
Fax # 704-872-5776

US Bankruptcy Administrator
Western District of NC
402 West Trade Street, Suite 200
Charlotte NC 28202-1669
Fax # 704-344-6666

Attend the hearing scheduled for March 2, 2006 at 9:30 am, in Room 201 of the Johnson J. Hayes Federal Building, 207 W. Main Street, Wilkesboro, North Carolina.

If you or your attorney do not take these steps, **A HEARING WILL NOT BE HELD**, and the Court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Date: 2/15/06



James B. Mallory III
Attorney at Law
P O Box 7
Statesville, NC 28687
Phone: 704-872-8189
State Bar # 12479

CERTIFICATE OF SERVICE

I, James B. Mallory III, do hereby certify that I served a copy of the foregoing Motion to Substitute Attorney - For Admission Pro Hoc Vice, Affidavit in Support of Application for Substitute Attorney - Admission Pro Hoc Vice and Order Approving Substitute Attorney - Admission Pro Hoc Vice on the following persons by depositing a copy of the same with the United States Postal Service, postage prepaid or by hand delivery to the business office.

U S Bankruptcy Administrator
Western District of North Carolina
402 West Trade Street
Suite 200
Charlotte NC 28202-1669
FAX: 704-344-6666

US Bankruptcy Court
P O Box 34189
Charlotte NC 28234-4189

Steven G. Tate, Trustee
P O Box 1778
Statesville, NC 28687

Barrett Crawford, Trustee
P O Box 580
Morganton, NC 28680-0580

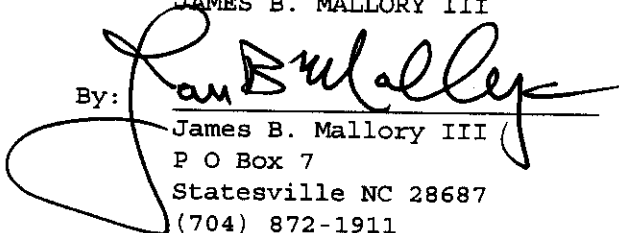
James T. Ward, Trustee
P O Box 240
Clover, SC 29710-0240

Warren L. Tadlock, Trustee
P O Box 30097
Charlotte, NC 28230-0097

This the 15th day of February, 2006.

JAMES B. MALLORY III

By:


James B. Mallory III
P O Box 7
Statesville NC 28687
(704) 872-1911



The North Carolina State Bar
Office of Counsel

208 Fayetteville St. Mall (27601)
Post Office Box 25908
Raleigh, North Carolina 27611
Telephone (919) 828-4620
Fax: (919) 834-8156
Web: www.ncbar.com

February 20, 2006

Mr. James B. Mallory, III
Attorney at Law
PO Box 7
Statesville, North Carolina 28687

Re: Bernard L. LeViner

Dear Mr. Mallory:

As counsel to the Authorized Committee of the North Carolina State Bar, I am responding to your letter of February 9 addressed to the Committee concerning the activities of Mr. LeViner.

Generally, there are two potential issues in examining whether there is a violation of the UPL statutes. The first is based on whether the activity is the practice of law. The second involves whether the person is holding him or herself out as capable of practicing law.

While it is clear that court appearances constitute the practice of law, there is an exception for appearances before the federal courts, including the bankruptcy court. Those appearances are governed exclusively by those courts. Assuming that the court has accepted Mr. LeViner's admission, limited or general, the Committee will not be concerned with his appearance before the federal court.

However, the Committee would still be concerned with how he held himself out. In prior decisions, the Committee has required the out of state attorney to use disclaimers and other means to make sure the clients and public understand that the attorney is not an attorney at law in North Carolina and to make sure there is disclosure of his jurisdiction of licensure.

I hope this is sufficient to help you address your question.

Sincerely,

David R. Johnson
Deputy Counsel

Carolin D. Bakewell, Counsel
A. Root Edmonson, Fern Gunn Simeon, David R. Johnson, Jennifer A. Porter,
Margaret T. Cloutier, Nichole P. McLaughlin, Katherine E. Jean, William N. Farrell, Jr.
Deputy Counsel