§ 109.6 Appearance and practice in adjudicatory proceedings.

(a) Appearance before the OCC or an administrative law judge—
(1) By attorneys. Every member in good standing of the bar of the highest court of any state, commonwealth, possession, territory of the United States, or the District of Columbia may represent others before the OCC if such attorney is not currently suspended or debarred from practice before the OCC.
(2) By non-attorneys. An individual may appear on his or her own behalf; a member of a partnership may represent the partnership; a duly authorized officer, director, or employee of any government unit, agency, institution, corporation or authority may represent that unit, agency, institution, corporation or authority if such officer, director, or employee is not currently suspended or debarred from practice before the OCC.

§ 109.7 Good faith certification.

(a) General requirement. Every filing or submission of record following the issuance of a notice shall be signed by at least one counsel of record in his or her own name and shall state that counsel’s address and telephone number. A party who acts as his or her own counsel shall file a notice of appearance with OFIA at or before the time that individual submits papers or otherwise appears on behalf of the party in the adjudicatory proceeding. The notice of appearance must include a written declaration that the individual is currently qualified as provided in paragraph (a)(1) or (a)(2) of this section and is authorized to represent the particular party. By filing a notice of appearance on behalf of a party in an adjudicatory proceeding, the counsel agrees and represents that he or she is authorized to accept service on behalf of the represented party and that in the event of withdrawal from representation, he or she will, if required by the administrative law judge, continue to accept service until new counsel has filed a notice of appearance or until the represented party indicates that he or she will proceed on a pro se basis.
(b) Sanctions. Dilatory, obstructionist, egregious, contemptuous or contumacious conduct at any phase of any adjudicatory proceeding may be grounds for exclusion or suspension of counsel from the proceeding.
Comptroller of the Currency, Treasury

§ 109.9

Ex parte communications.

(a) Definition—(1) Ex parte communication means any material oral or written communication relevant to the merits of an adjudicatory proceeding that was neither on the record nor on reasonable prior notice to all parties that takes place between:
   (i) An interested person outside the OCC (including such person’s counsel); and
   (ii) The administrative law judge handling that proceeding, the Comptroller, or a decisional employee.

(b) Prohibition of ex parte communications. From the time the notice is issued by the Comptroller until the date that the Comptroller issues the final decision pursuant to § 109.40(c) of this subpart:
   (1) No interested person outside the OCC shall make or knowingly cause to be made an ex parte communication to the Comptroller, the administrative law judge, or a decisional employee; and
   (2) The Comptroller, administrative law judge, or decisional employee shall not make or knowingly cause to be made to any interested person outside the OCC any ex parte communication.

(c) Procedure upon occurrence of ex parte communication. If an ex parte