

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

**PILOT PROGRAM TO IMPLEMENT  
A CIVIL PRO BONO PANEL**

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The United States District Court for the District of Colorado hereby institutes a Civil Pro Bono Panel Pilot Program (the “Pilot Program”), a Court-created program consisting of volunteer attorneys willing to represent individuals of limited financial means in civil matters whenever requested by the Court and without compensation. The Court adopts the Pilot Program stated herein, which directs the implementation and funding of the Civil Pro Bono Panel.

I. Establishment of the Civil Pro Bono Panel and Standing Committee

A. As one way to assist attorneys in providing pro bono services, and in light of the need for attorneys to represent pro se litigants who are indigent or of limited financial means in civil matters before this Court, the Court hereby establishes a Civil Pro Bono Panel ("Panel") of attorneys who are members in good standing of the Bar of this Court and who have agreed to accept pro bono appointments to represent indigent pro se litigants in civil cases before this Court. Members of the Bar of this Court are urged to volunteer to serve on this Panel.

B. The Chief Judge shall appoint a Standing Committee on Pro Se Litigation, which shall include one District Judge, one Magistrate Judge, one representative from the Faculty of Federal Advocates (“FFA” or “the Faculty”), one representative from the Colorado Bar Association, one representative from a private firm, one representative from Colorado Legal Services, one representative from the University of Denver Sturm College of Law’s clinical program, one representative from the University of Colorado Law School’s clinical program, one representative from the District Court’s Pro Se Division, and the District Court’s Legal Officer. The purpose and mission of the Standing Committee shall be to oversee the Panel established herein, and to annually report to the Court on the operation of the Panel. Eight of the ten Standing Committee members will have voting rights, to be determined by the Chief Judge. Decisions of the Standing Committee shall be made by majority vote of those present at a meeting. Any tie in votes shall be broken by the Chairperson.

C. The Standing Committee is entrusted with the implementation of the Panel as described in Part III of this Pilot Program and is empowered to recommend modifications to the procedures set forth in that section as needed. The Court’s district judges retain the authority to approve or disapprove of Standing Committee decisions at any time, as well as the authority to modify the scope of the Standing Committee’s delegated authority at any time.

## II. Court Appointed Representation

A. Attorneys who are members in good standing of the Bar of this Court and who have applied and been accepted to the Panel should be willing to assist or represent individuals of limited financial means in civil matters before this Court whenever requested by the Court and, if necessary, without compensation.

B. This provision does not preclude attorneys from representing parties pro bono in the absence of Court appointment.

## III. Implementation of the Panel

The following provisions within this section outline the steps, instructions, and rules for the implementation of the Panel. The Standing Committee established by the Pilot Program is entrusted to implement the Panel by following the directives stated herein.

### A. Civil Pro Bono Panel

(1) Attorneys, law firms, and clinical legal education programs ("Clinics") at law schools accredited by the American Bar Association that are willing to accept appointment to represent indigent pro se parties in civil actions may apply to join the Panel. Appropriate forms shall be available from the Clerk of Court ("Clerk"), and the approved application form is included at the end of this Pilot Program. Each application shall set forth, among other things:

- (a) in the case of a law firm or Clinic, the name of a member of such organization designated as the Panel Liaison, to whom orders of appointment may be directed;
- (b) that the individual attorney, Panel Liaison, or supervisor of the Clinic is a member in good standing of the Bar of this Court;
- (c) the attorney's prior civil trial experience or trial advocacy training;
- (d) whether the attorney, law firm, or Clinic has the ability to consult and advise clients and potential clients in languages other than English;
- (e) the number of cases per calendar year the applicant, if other than an individual, is willing to accept;
- (f) any particular litigation experience or interest in specific types of civil cases to which attorneys from the Panel are most often appointed (e.g. Section 1983 or *Bivens* actions, employment discrimination cases, consumer rights/credit reporting cases, and social security claims).

(2) Information on an application may be amended at any time by letter to the Clerk of Court. An attorney, law firm, or Clinic may withdraw from the Panel at any time by letter submitted to the Clerk of Court.

## B. Appointment of Counsel

Appointment of counsel from the Panel is not contingent on the case surviving a dispositive motion.

(1) Non-Prisoner IFP Pro Se Litigants: When leave has been granted pursuant to 28 U.S.C. § 1915 for a non-prisoner pro se litigant to proceed *in forma pauperis* (“IFP”), and after the pro se litigant’s complaint has been reviewed by the Court’s Pro Se Division, the judicial officer to whom the case is assigned may, on motion by the pro se party or otherwise, appoint an attorney from the Panel to represent such party. The appointment should be made taking into account:

- (a) the nature and complexity of the action;
- (b) the potential merit of the pro se party's claims;
- (c) the demonstrated inability of the pro se party to retain counsel by other means; and
- (d) the degree to which the interests of justice will be served by appointment of counsel, including the benefit the Court may derive from the assistance of the appointed counsel.

The judicial officer may also evaluate the litigant’s case for appointment on his or her own initiative, applying factors (a) through (d) in making such determination.

(2) Non-Prisoner Non-IFP Pro Se Litigants: A non-prisoner pro se litigant who has paid the District Court’s case filing fee in full at the same time the lawsuit is initiated may request appointment of counsel from the Panel by filing a motion explaining such request. The movant shall show in the motion that despite not having *in forma pauperis* status, he or she is nevertheless a person of limited means. The judicial officer will evaluate the motion by applying factors (a) - (d) in paragraph (1) of this Section B. The judicial officer may also evaluate a litigant’s case for appointment on his or her own initiative, applying these same four factors.

(3) Prisoner Pro Se Litigants: A pro se litigant who is incarcerated, regardless of whether the prisoner litigant proceeds IFP or has paid the filing fee in full, may be eligible for appointment of counsel from the Panel, within the judicial officer’s discretion. The judicial officer will evaluate a prisoner pro se litigant’s case for appointment of counsel either on motion by the litigant or on the judge’s own initiative and will apply factors (a)-(d) in paragraph (1) of this Section B in making such determination.

## C. Appointment Procedure

(1) The judicial officer shall not direct the appointment of a specific attorney from the Panel but may advise the Clerk to attempt to select an attorney with particular expertise. The judicial officer may enter an Appointment Order in the case at issue upon satisfaction of the considerations stated in Paragraph (1) of this Pilot Program. All entries by the

Court in the case at issue will be mailed to the pro se litigant(s), in addition to being posted on the electronic case filing system.

(2) Upon receiving the Appointment Order, the Clerk shall select a member of the Panel within 14 days. In making the selection, the Clerk shall use an automated random selection process, taking into consideration the experience and preferences of Panel members regarding specific types of cases and the equitable distribution of cases among Panel members.

(3) Before selecting any attorney, the Clerk shall determine whether the litigant has any other case pending before the Court and whether an attorney has been retained or appointed in such case. If so, such retained or appointed counsel shall be contacted by the Clerk and encouraged, but not required, to accept appointment to represent the litigant in the new action. If such counsel declines, the Clerk shall select another attorney in accordance with this provision.

(4) Once the Clerk has selected a member of the Panel, the Clerk will contact the member and send a copy of the Appointment Order, this Pilot Program plan, any pleadings, and any relevant correspondence or other documents to the appointed attorney. The selected attorney shall, within three business days of contact by the Clerk, review the case, perform a conflicts check, and otherwise ensure that there is no professional impediment that prevents acceptance of the case. The selected attorney shall then notify the Clerk of the attorney's availability. If accepted, the Clerk will enter a Notice of Appointment in the case at issue. The Clerk shall also send a copy of the Appointment Order, the Notice of Appointment, and this Pilot Program plan to the pro se litigant(s).

#### D. Responsibilities of the Appointed Attorney

(1) Upon receiving the Notice of Appointment and Appointment Order, and unless a conflict of interest is apparent, the appointed attorney shall promptly communicate with the pro se party regarding the action. Such communication shall include exploration of any actual or potential conflicts of interest and whether the dispute could be resolved more appropriately in other forums or by other means.

(2) After any such consultation with the pro se party, the appointed attorney shall, within 30 days of receiving the Notice of Appointment and Appointment Order, or within such additional time permitted by the judicial officer for good cause shown, file either:

(a) a notice of appearance pursuant to D.C.COLO.LCivR 11.1; or

(b) a motion for withdrawal from the appointment pursuant to Section E "Relief from Appointment" set forth in this Pilot Program and pursuant to D.C.COLO.LCivR 83.3D.

(3) If a notice of appearance is filed by the appointed attorney, the appointed attorney shall represent the party in the action from the date he or she files an appearance until (a)

he or she has been relieved of the appointment by the Court according to the provisions stated in this Pilot Program, (b) the case has been dismissed, (c) the case has been transferred to another Court, or (d) a final judgment has been entered in the action by this Court.

(4) The appointed attorney accepting the appointment shall not be required to represent the client in any other matter.

(5) If an Appointment Order has been directed to a participating law firm or a Clinic, the action shall remain the responsibility of the firm or of the Clinic, notwithstanding the firm's or Clinic's assignment of the case to one of its attorneys.

(6) An attorney appointed pursuant to this Pilot Program may, but is not required to, represent the pro se party:

(a) in any appeal taken either by the pro se party or an opposing party from a final judgment entered by this Court, provided, however, that if the appointed attorney elects not to represent the pro se party on such appeal, he or she shall advise the party of the requirements for filing a notice of appeal or cross-appeal within sufficient time for the party to file such a notice pro se; or

(b) in any proceeding that is related or collateral to the action in this Court or that may ensue upon an order of dismissal or remand of the action in this Court.

(7) An appointed attorney may be assisted by co-counsel. Co-counsel may come from the attorney's law firm, selected by the appointed attorney. In the alternative, appointed counsel may request appointment of additional co-counsel from the Panel. Any counsel assisting in the case must become members of the Panel. A notation will be made in the Clerk's records that such counsel entered as co-counsel and will be given consideration of that fact at the time of the next appointment.

#### E. Relief from Appointment

(1) An appointed attorney may be relieved of an Appointment Order only on the following grounds:

(a) a conflict of interest precludes the attorney from representing the party in the action; or

(b) a substantial disagreement exists between the attorney and the party on litigation strategy; or

(c) in the attorney's opinion, formed after reasonable inquiry, the claim or defense is not well grounded in fact; or is not warranted under existing law and cannot be supported by good faith argument for extension, modification, or reversal of existing law; or the party is proceeding for purposes of harassment or other improper purpose; or

(d) because of an unusually heavy, but temporary, burden of other professional

commitments, the attorney lacks the time necessary to competently represent the party; or  
(e) on such other grounds acceptable to the Court for good cause shown.

(2) An attorney seeking to be relieved from appointment for the reasons set forth in Section E(1) above shall file a motion for withdrawal compliant with D.C.COLO.LCivR 83.3D. The motion shall set forth the circumstances constituting cause for withdrawal, consistent with the Colorado Rules of Professional Conduct, as incorporated into D.C.COLO.LCivR 83.4 with proof of service on the pro se litigant. Withdrawal will require Court approval, distribution of which shall be given to all parties if the withdrawing attorney has filed a notice of appearance.

(3) If an appointed attorney is relieved from an order of appointment, the judicial officer may issue an order directing appointment of another attorney to represent the party, or may issue such other orders as the judicial officer deems appropriate.

(4) Attorneys participating in the Panel are expected to be reasonably available and willing to accept appropriate appointments pursuant to this Pilot Program. Attorneys are subject to removal from the Civil Pro Bono Panel by the Standing Committee after an unreasonably excessive number of requests by an attorney for relief from appointment. Attorneys participating in the Panel are also subject to removal from the Panel at any time for failure to comply with applicable court rules and rules of professional conduct in the course of their appointed representation of clients. Attorneys participating in the Panel must be in good standing of the bar of the District of Colorado and shall be removed from the Panel by the Clerk on notice of lack of good standing status of the attorney.

#### F. Discharge

A party for whom an attorney has been appointed shall be permitted to request that a judicial officer discharge the attorney from the representation. The Court will consider such a request under the appropriate standards the Court follows when such motions are made by represented parties in civil matters.

#### G. Expenses

(1) Panel members who accept the appointment of a case and incur litigation expenses as a result may apply for reimbursement from the FFA, which is a private, non-profit organization. Pursuant to the terms of the letter dated June 22, 2012, to the District Court from the Faculty (“June 22, 2012 FFA Letter”), incorporated by reference in the Pilot Program establishing the Panel, the FFA is entrusted to manage a reimbursement fund dedicated to defray some of the reasonable expenses incurred in the course of appointments made pursuant to the Panel. Accordingly, Panel members may apply to the FFA for reimbursement, although there is no guarantee that funds will always be available, or that the FFA will reimburse counsel for all or part of the subject expenses.

Panel attorneys are encouraged to absorb the litigation expenses incurred by participation with the Panel, in lieu of seeking reimbursement.

(2) The financial sources of the fund are specified in Part IV of this Pilot Program regarding funding, which is incorporated by reference in the Pilot Program establishing the Panel.

(3) Counsel may apply to the FFA for reimbursement using an application form available through the FFA. The FFA imposes an expense cap, and certain expenses are not considered reimbursable. Counsel must review the FFA's independent criteria to determine which expenses may be reimbursable. Attorney fees are not reimbursable. Procedures to apply for reimbursement, and decisions on what expenses are reimbursable, are determined exclusively by the FFA and must be consistent with the terms of the June 22, 2012 FFA Letter. Neither the Panel's Standing Committee nor the Court is involved or responsible for reimbursing expenses.

(4) Panel members who recover attorney's fees during the course of their representation through the Panel are encouraged to donate all or part of attorney's fee awards to the FFA for continuity of the program.

#### H. Attorney's Fees

(1) The appointed attorney shall represent the client without receiving a fee, except that in cases where the client may be entitled to recover attorney's fees or a monetary award or monetary settlement, the appointed attorney shall advise the client of the possibility of such recovery and may:

(a) condition the representation on the client's entering into a written agreement assigning to the attorney any amounts recovered by the client as attorney's fees pursuant to laws, including case law, authorizing the award of attorney's fees; and/or

(b) propose to the client a contingent fee arrangement providing for the payment of a reasonable fee out of any funds recovered by the client as a result of the representation. A contingent fee arrangement shall provide that the amount of any payment received by the attorney pursuant to an assignment agreement under subparagraph (a) above shall be credited against the client's fee obligations under such a contingent fee arrangement. Any such contingent fee arrangement shall be in writing, executed by both the attorney and the client. Any contingent fee agreement between a Panel attorney and his or her client shall comply with the Colorado Rules Governing Contingent Fees; and/or

(c) seek to assist the client in retaining other counsel on a compensated basis, subject to the client's consent to such a change in representation and to the Court's approval of a request for relief from appointment under Section E(1) on the

ground that the party no longer requires appointed counsel for the purpose of pursuing the claim(s) at issue, but, if the appointed attorney is unable to obtain such counsel for the client, he or she shall then continue the representation to its conclusion unless relieved by the Court, either without receiving a fee, or pursuant to an assignment or contingent fee arrangement as provided in subparagraphs (a) and (b) above.

(2) Any attorney's fee agreement permitted under subparagraphs (1)(a) and (b) shall be entered into prior to the entry of the attorney's notice of appearance pursuant to Section D(2).

(3) In cases in which the applicable statute authorizes the award of attorney's fees to be paid out of the amounts awarded to the plaintiff, the appointed attorney shall advise the client of the possibility of such an award.

#### I. Training Sessions

The Standing Committee shall, in cooperation with the FFA, organize and conduct educational programs to train and advise attorneys on the Panel in the preparation and trial of the most common types of civil actions involving pro se parties brought before this Court.

#### J. Appointment of Non-Panel Attorneys or Legal Organizations

Nothing in this Pilot Program shall be interpreted as preventing the judicial officer in any case from requesting an attorney, law firm or legal organization that is not on the Panel to represent a litigant who is otherwise proceeding pro se in this Court.

#### K. Faculty of Federal Advocates

The Court orders that the Faculty will administer the reimbursement of expenses reasonably incurred by attorneys participating in the Panel. The Court further orders that the Faculty shall have final authority to make all decisions relating to reimbursement requests. All such decisions shall be final, and are not appealable including, without limitation, to any judicial officer or employee of the Court.

### IV. Funding of the Panel

The Faculty will manage the reimbursement of expenses incurred by Panel attorneys in the course of their representation of litigants through the Panel. The FFA will be solely responsible for designating criteria and procedures for reimbursement of Panel attorneys, including attorneys associated with clinical legal education programs participating in the Panel. The FFA will retain its 26 USC § 501(c)(3) status, and will rename the reimbursement fund associated with the former counsel/co-counsel program as the Civil Pro Bono Panel Reimbursement Fund (the



“Fund”).

In order to facilitate the success of the Panel, the Court will assist the FFA in establishing the Fund. However, the Court will have no influence or control over how reimbursements of eligible Panel attorney expenses are permitted or distributed. The operation of the FFA in managing the Fund will be entirely separate from the general operation of the Panel by the Standing Committee and the Court generally.

#### A. Financial Resources Dedicated to the Fund

The Court will assist the FFA in establishing the Fund and providing money for the Fund in three ways:

- (1) The Court will provide a one-time grant in the amount of \$25,000 reallocated from the Court’s non-appropriated fund to the FFA for purpose of seeding the Fund. This grant may be reimbursed back to the Court at a future time.
- (2) The Court will impose a one-time re-admission fee on all attorneys registered in the Court’s CM/ECF system, in the amount of \$50.00. All proceeds will be granted to the FFA to in turn be used exclusively as a contribution to the Fund.
- (3) The Court will increase its standard admission fee by \$25.00, for a total of \$211.00. The additional \$25.00 will be dedicated exclusively to the Fund, and will be granted to the FFA to be used exclusively as a contribution to the Fund.

The proceeds from the re-admission fee and the increase of the standard admission fee dedicated to the Fund will be granted to the FFA in one lump sum every three months.

Law firms and attorneys are encouraged to absorb their expenses, in lieu of requesting reimbursement from the FFA. Further, law firms and attorneys are encouraged to donate any attorney fees recovered on conclusion of their representation through the Panel to the Fund.

#### B. Fund Expectations

The estimated Fund balance within the first three months of 2013, the year of implementation, is \$195,850 -- which consists of the seed money plus payment of the re-admission fee by one-fourth of all attorneys registered in the CM/ECF system (3,417 attorneys out of 13,669 total)<sup>1</sup>. If the reimbursement cap established by the FFA is set at \$3,000 per case, \$195,850 will cover reimbursement for 65 cases.

The Fund will be recharged from two sources: 1) the increase in the standard admission fee; and 2) assuming not all attorneys registered on CM/ECF will pay the re-admission fee within the first three months after imposition, continuing income from payment of the re-admission fee.

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<sup>1</sup> That number was current as of September 12, 2012.

Regarding the first source, the current (2012) attorney admissions fee is \$186, which is allocated as follows: \$176 to the Administrative Office of the United States Courts (“A.O.”) and \$10 to the District’s non-appropriated fund. The new fee is \$211, which would be allocated as follows: \$176 to the A.O., \$10 to the District Court’s non-appropriated fund, and \$25 to the Fund. An average of 1,216 attorneys, who were required to pay a fee, were admitted per year for the last five years. Based on this average, the Fund will receive approximately \$30,400 per year from the increase in the standard admission fee.

The second source will decrease over time, and the maximum amount recoverable by the imposition of the re-admission fee is \$683,450, if the re-admission fee were imposed today (applicable to 13,669 attorneys total).

**Projected Revenue Sources, 2013-2017**

<b>Funding Resource</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
<b>One-Time Attorney Renewal Fee (\$50.00)</b>	\$170,850 (1/4 of 13,669 Attorneys) [3,417]	\$50,000 (1,000 of 13,669 attorneys renewing/ year) [4,417 total]	\$50,000 [5,417 total]	\$50,000 [6,417 total]	\$50,000 [7,417 total]
<b>Increase in Standard Attorney Admission Fee (\$25.00)</b>	\$30,400 (Average of 1,216 attorneys admitted/year)	\$30,400	\$30,400	\$30,400	\$30,400
<b>Non-Appropriated Funds Grant</b>	\$25,000	\$0.00	\$0.00	\$0.00	\$0.00
<b>Other – (FFA/FBA)</b>	Unknown	Unknown	Unk.	Unk.	Unk.
<b>TOTAL</b>	\$226,250	\$80,400	\$80,400	\$80,400	\$80,400

The FFA may raise money for the Fund through private donations from the Bar and other groups. The District Court will not participate in the solicitation of any private donation.

C. Caseload Expectations

The Panel contemplates three categories of eligible litigants: 1) non-prisoner IFP pro se litigants; 2) non-prisoner non-IFP pro se litigants; and 3) prisoner pro se litigants (IFP or non-IFP). In 2011, 183 cases involved a non-prisoner IFP pro se litigant.

For all three categories of cases, the litigant must file a motion requesting appointment, and the judicial officer will evaluate the motion by applying the factors set forth in Part III.B of this Pilot Program. In 2011, 183 cases involved a non-prisoner IFP pro se litigant, 148 cases involved non-prisoner non-IFP pro se litigants, and 374 cases involved prisoner pro se litigants. Moreover, with regard to all classes of litigants, the judicial officer additionally has the discretion to

consider appointment of counsel from the Panel on his or her own initiative.

### **Pro Se Caseload, 2011**

<b>Type of Case</b>	<b>2011</b>
non-prisoner IFP pro se litigants	183
non-prisoner non-IFP pro se litigants	148
prisoner pro se litigants	374
<b>TOTAL</b>	<b>705</b>

#### D. Procedure for Imposition of a One-Time Attorney Bar Membership Renewal Fee

In the interest of maintaining the accuracy of the roll of attorneys of the court, and generating sufficient funding for attorney-related activities, including the newly-created Civil Pro Bono Panel of attorneys, the United States District Court for the District of Colorado hereby announces the imposition of a one-time renewal fee for attorneys admitted to the Bar of this Court.

The district judges have determined that proper completion of an attorney contact information form is necessary, and that a one-time re-admission fee shall be imposed on all attorneys in the amount of \$50.00. The guidelines for submission of the information form, the fee payment and enforcement procedure, and exemptions for certain categories of attorneys, are set forth below.

(1) Notice will be provided to all attorneys by the distribution of this Pilot Program as follows:

- (a) All attorneys registered with the district court's Case Management/Electronic Case Filing (CM.ECF) system will be notified electronically;
- (b) An announcement will be posted on the district court website;
- (c) Announcements will be provided to the Colorado Bar Association; the Faculty of Federal Advocates; and the Federal Bar Association.

(2) Each renewing attorney is required to complete an online Attorney Renewal Information Form, and submit payment of the re-admission fee of \$50.00 ("Renewal Application Packet") available on the district court website. All information must be current, including e-mail address, to ensure proper noticing in ECF. Any attorneys who have not already registered with ECF will be provided the opportunity to do so, as it is a requirement for all attorneys wishing to enter an appearance or file a document in a case.

(3) The Renewal Application Packet must be submitted and paid by August 15, 2013. If not completed by that date, it must be paid within 30 days of entry of appearance in a case. A note will be entered in the record of an attorney by the Clerk's office reflecting non-completion of the Renewal Application Packet and payment of fee. Counsel will be advised that continued entries of appearance in the district court, without completion of the Renewal Application Packet and payment of fee, will lead to placement in "Not in Good Standing" status or may lead to other sanctions, including removal from the Court's Roll of Attorneys.

(4) The following classes of attorneys are exempt from the fee:

(a) All attorneys admitted in the calendar year 2013 (the year of implementation of the fee);

(b) All attorneys employed by the U.S. government. This includes attorneys working for the Federal Public Defender's Office; all Department of Justice attorneys, including members of the U.S. Attorney's Office; and all other attorneys of the executive, legislative and judicial branches; and

(c) All attorneys who have voluntarily resigned from the Bar of the Court.

#### V. Pilot Project Rule. D.C.COLO.LCivR 1.1I., D.C.COLO.LCrR 1.1I., D.C.COLO.LAPR 1.1I.

Effective Dec. 1, 2012, the Court has enacted the local Pilot Project rule, as set forth in D.C.COLO.LCivR 1.1I., D.C.COLO.LCrR 1.1I., and D.C.COLO.LAPR 1.1I. Under the rule, the Court may implement pilot programs or special projects by means of a public notice that addresses the rule's provisions. Accordingly, to give all due consideration to the Pilot Project Rule's import and effect, the Court states the following:

- A. As set forth in Part I.A. of this Pilot Program, the purpose of the Civil Pro Bono Panel program is to provide the means for volunteer counsel to assist pro se litigants in civil matters in this court.
- B. The term of the Civil Pro Bono Panel program shall not exceed one year, pursuant to D.C.COLO.LCivR 1.1I.2 and the corresponding criminal and AP rules. The Court may, in its discretion, extend the program for six months pursuant to D.C.COLO.LCivR 1.1I.2, in conjunction with the promulgation of a corresponding Local Rule.
- C. The specific provisions of the Local Rules of Practice concerning pro se matters and attorneys' entries of appearance, i.e. D.C.COLO.LCivR 8.1, Pro Se Pleadings, D.C.COLO.LCivR 8.2, Prisoner Pleadings, and D.C.COLO.LCivR 11.1, Appearances, are not affected by the procedures implemented under Civil Pro Bono Panel program.

D. The requirements necessary to implement or facilitate the Civil Pro Bono Panel are set forth in Parts I through IV of this Pilot Program.

In addition, this Pilot Program will be submitted to a public notice and comment period, and thereby subject to revision, as more fully described in Part VI below.

#### VI. Public Notice and Comment

This Civil Pro Bono Panel program presents many unique opportunities and obligations for the Court, the public, the Faculty of Federal Advocates and the Bar of this court. This program will institute new administrative procedures for the Court; it will impose new duties on the FFA; it will give rise to new professional obligations and opportunities for the Bar of this Court; and it will for the first time provide those members of the public of limited financial means with an organized and transparent program, under the direct auspices of the Court, by which they may seek and obtain legal representation on a pro bono basis. For these reasons, the Court is providing a public notice and comment period of thirty days to identify any concerns the public or the Bar may have. Notice to the Bar and the public will be provided in the same manner set forth in the notice procedures regarding imposition of the bar renewal fee in Part IV.D of this Pilot Program. The Court's district judges will meet and confer after expiration of the comment period and carefully consider all comments and suggestions before final implementation of the program.

Public Notice will be given no later than two business days after the date of approval by the Court of this Pilot Program. The Notice and Comment Period of thirty days will commence from the date the Public Notice is given. The provisions of this Pilot Program will take effect on final Court adoption of the Plan after consideration of public comments received during the comment period.

APPROVED BY THE COURT in Denver, Colorado on the 10th day of April, 2013.

REVISED AND ADOPTED BY THE COURT in Denver, Colorado this 5th day of June, 2013.

**APPLICATION TO JOIN THE CIVIL PRO BONO PANEL**

Applicant:

Point of Contact (if applicant is other than an individual):

Jurisdiction(s) and year(s) of admission to the Bar:

E-mail address:

Mailing address:

Phone:

Fax:

If applicant is other than an individual, number of cases willing to accept per year:

Type of cases qualified (by experience or willingness to learn) to accept:

- \_\_\_\_\_ Civil rights cases
- \_\_\_\_\_ Consumer rights/ credit reporting/ foreclosure cases
- \_\_\_\_\_ Employment discrimination claims
- \_\_\_\_\_ FOIA/Privacy Act cases
- \_\_\_\_\_ Prisoner's rights cases (§ 1983 or *Bivens*)
- \_\_\_\_\_ Social Security appeals
- \_\_\_\_\_ Other (Specify: \_\_\_\_\_ ; Applicants may refer to the options listed on the Civil Cover Sheet used in this District)(attached)

Languages other than English (fluent both spoken and written):

Prior civil litigation and trial experience or trial advocacy training:

Please indicate whether you have been cleared or are willing to be cleared by the Federal Bureau of Investigations for certain types of cases requiring elevated security clearance:

Please indicate whether you would be willing to serve in a mentoring capacity to less experienced attorneys:

I certify that I am a member in good standing of the Bar of the U.S. District Court for the District of Colorado.

\_\_\_\_\_  
Signature      Date

**Please return to the Clerk of Court, United States District Court for the District of Colorado, Attn: Edward Butler, Alfred A. Arraj U.S. Courthouse, Room A105, 901 19th Street, Denver, Colorado, 80294-3589. If you prefer, you may submit the application by e-mail to [COD\\_ProBonoPanel@cod.uscourts.gov](mailto:COD_ProBonoPanel@cod.uscourts.gov).**

*Faculty of Federal Advocates  
P.O. Box 12025  
Denver, CO 80212-0025*

*June 22, 2012*

The Honorable Wiley Y. Daniel  
Chief Judge  
United States District Court  
District of Colorado  
Alfred A. Arraj United States Courthouse  
901 Nineteenth Street, Room A1038  
Denver, CO 80294

Greg Langham  
Clerk of United States District Court  
District of Colorado  
Alfred A. Arraj United States Courthouse  
901 Nineteenth Street, Room A105  
Denver, CO 80294

Re: New Federal Pro Bono Project

Dear Chief Judge Daniel and Mr. Langham:

I am writing to confirm the support of the Faculty of Federal Advocates (FFA) for the new proposed Federal Civil Pro Bono Program. The FFA is excited about this new proposed program and fully committed to supporting the Civil Pro Bono Program by providing education programs, recruiting volunteers and assisting with logistics such as the management of funds and cost reimbursement. Pursuant to your request, I am also including information regarding the FFA's historical role with the Counsel/Co-Counsel program and the proposed role for the FFA with the new Federal Civil Pro Bono Program.

The FFA was formed in 1997, after Chief Judge Matsch appointed a task force to develop a plan for a federal court practice organization to address substantive and procedural issues unique to federal court. The FFA is dedicated to improving the quality of legal practice in the United States District Court for the District of Colorado, and committed to enhancing advocacy skills, professionalism and the integrity of the federal judicial system. The FFA is a 501(c)(3) tax-exempt charitable organization.

For many years, the FFA has operated the Counsel/Co-Counsel Program as a way to alleviate the pro se cases in the federal district court as mandated by Congress in the Civil Justice Reform Act. The program was started in 1997 by Judge Phil Figa when he served as CBA President. The Faculty took over the program soon after and continues to provide representation in civil cases



that the Judges have determined are sufficiently complicated to warrant the appointment of counsel.

Over the years, the FFA has received grants from the District of Colorado and other sources to help fund the Counsel/Co-Counsel Program. The FFA envisions that the Counsel/Co-Counsel program would be folded into and superseded by the new Civil Pro Bono Program.

The FFA keeps our funds for this program in a segregated bank account dedicated to this program. The funds are used for three purposes:

- Malpractice insurance (To cover the FFA and attorneys who ask for coverage while they are engaged in representation)
- Costs for training and education programs (Primarily duplicating materials and refreshments)
- Grants to participating attorneys for reimbursement of out of pocket costs incurred in conjunction with the cases.

With regard to the cost reimbursement, the FFA's Pro Bono committee reviews and approves all requests for reimbursement. The FFA has a limit of \$3000 per case and provides written guidelines stating what types of expenses are eligible for reimbursement. This limit has allowed us to distribute the limited available funds in an equitable manner. Our experience is that most cases have actual out of pocket costs that well exceed \$3000, and the expenses over the limit are paid by the volunteer attorneys and their firms. I've attached a copy of the current guidelines used for the FFA Counsel/Co-Counsel program. From 2007-2011, the FFA made grants totaling \$113,950 to reimburse volunteer lawyers for out of pocket costs associated with their cases.

The FFA has offered to serve in a similar capacity for the new Civil Pro Bono Program. We understand that the FFA would receive from the court grant money stemming from various sources generated from attorney admission fees and would use it exclusively to promote and support the Federal Civil Pro Bono Program. Based on our experience with the Counsel/Co-Counsel Program and understanding of our role, we anticipate the following types of expenditures:

- **Malpractice Insurance:** Over the years, we've learned that many attorneys do not have malpractice insurance that covers pro bono cases. The FFA would get a policy that would cover the FFA and any volunteer attorneys who asked to be listed on the policy. We would estimate that this would cost at least \$1000 per year.
- **Cost Reimbursement for Individual Attorneys or Firms:** We propose to develop guidelines for reimbursement and to have a limit for each case. These guidelines would be similar to the guidelines we've used with the Counsel/Co-Counsel program. Our aim is to reimburse actual out of pocket expenses such as transcripts and expert fees – not anything that would properly be considered part of an attorney's overhead such as secretarial time. The final cost reimbursement guidelines would be approved by the FFA Board. These cost reimbursements would be handled on a retrospective basis. Requests would be required to include documentation substantiating the actual expenses incurred.

Individual requests would be reviewed by the FFA's pro bono committee in the first instance and then the grant approved by the FFA Board. We propose a limit of at least \$3,000 per year. Based on the estimated number of cases that may be placed by this program, annual reimbursement expenses could exceed \$60,000 per year. (Twenty requests for reimbursement of \$3000 per case). The FFA would have discretion to decline requests if at some point there are not funds available in the FFA's Civil Pro Bono Program reimbursement account.

- **Grants to Legal Clinics:** We understand that University of Denver College of Law and the University of Colorado School of Law may participate as "law clinics" and agree to take a certain number of cases in the Civil Pro Bono Program. We understand that the FFA would serve as the grantor for the law school clinics. We propose that these grants be made prospectively each year. Each clinic would submit a proposal to the FFA, similar to what University of Denver has provided to the Court in the past, and the FFA Board would approve an annual grant to the clinic. Based on our understanding of grants in the past, we anticipate that these grants would be approximately \$10,000 per year per clinic. The law schools or other clinics would be required to submit annual reports accounting for the use of the grant funds.
- **Miscellaneous expenses:** We anticipate expenses of approximately \$2000 per year in conjunction with training programs, volunteer recruiting events, speakers, and other activities that we would undertake to support the Civil Pro Bono Program.

The total annual expenses are likely to exceed \$75,000, depending on the number of cases that are assigned and the requests that the FFA receives for reimbursement. We anticipate that the annual expenditures would likely exceed the projected \$30,000 in annual admission fees, so the seed money will be used to help with the overage. The FFA would also seek other grant money, but our experience is that funds for these much-needed programs are scarce.

The FFA takes its role seriously and would provide a comprehensive annual report and accounting of all funds used and distributed in this program that would track the expenditures for each case according to the FFA reimbursement guidelines.

We hope that this information is helpful. Please let us know if you have questions or would like more detail on any of these issues.

Thank you very much.

Very truly yours,

A handwritten signature in black ink that reads "Natalie Hanlon-Leh". The signature is written in a cursive, flowing style.

Natalie Hanlon-Leh  
President

## Pro Bono Reimbursement Criteria

### Costs that are reimbursable:

1. Photocopies: FFA will reimburse copy costs at \$.07 per page  
  
(That is cost that Blue Moose does copies for all customers)
2. Long distance calls FFA will reimburse for long distance calls.
3. Investigation FFA will reimburse investigation costs at \$75/hour
4. Experts FFA will reimburse costs and fees for experts that are retained at a reasonable rate, with understanding that any cumulative costs that exceed \$3000 for a case must be pre-approved.
5. Depositions FFA will cover the costs of depositions, **if** participants schedule depositions through this service. Attached are the CCRA Pro Bono guidelines.  
  
Linda Koenig  
Hunter Geist  
(303) 832-5966  
(303) 484-0571 (cell)
6. Transcripts FFA will cover the cost of necessary transcripts.
7. Travel FFA will only cover out-of-state travel costs upon pre-approval and encourages all participants to conduct depositions and attend hearings by telephone whenever possible.

### Costs that are not reimbursable:

1. Faxes Cost of sending local faxes are not reimbursable. The cost of long distance faxes are recoverable to the extent the charges are for actual long distance phone time.
2. Secretarial Costs Secretarial costs are not reimbursable.
3. Legal Research The FFA will not reimburse for computerized legal research to the extent the participant pays a flat fee for monthly legal research access.