

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

LOCAL RULES OF PRACTICE



Effective December 1, 2016

X. ATTORNEY PRO BONO REPRESENTATION

D.C.COLO.LAttyR 15

CIVIL PRO BONO REPRESENTATION

- (a) **Court Appointed Pro Bono Representation in Civil Actions.** The Civil Pro Bono Program provides for the selection and appointment of eligible, volunteer attorneys to represent without compensation eligible, unrepresented parties in civil actions when requested by the court. The program is implemented through the Standing Committee on Pro Bono Litigation (Standing Committee), the Civil Pro Bono Panel (Panel) and the Faculty of Federal Advocates (FFA).
- (b) **Standing Committee: Composition, Mission, and Authority.**
- (1) The Chief Judge shall appoint the members of the Standing Committee. The committee shall include one district judge, one magistrate judge, the Legal Officer of the court, and one representative each from the following organizations: the FFA, the Colorado Bar Association, a private law firm, Colorado Legal Services, the clinical program of the University of Denver Sturm College of Law, the clinical program of the University of Colorado Law School, and the Pro Se division of the court.
 - (2) The purpose and mission of the Standing Committee is to oversee the Panel, report annually to the court on the status of the program, and promote access to the court by unrepresented parties.
 - (3) Decisions of the Standing Committee shall be made by majority vote of those present at a meeting of the committee. A majority of the district judges may vacate a decision of the Standing Committee.
- (c) **Panel Membership and Removal.**
- (1) A member of the Panel shall be an attorney who is a member in good standing of the bar of this court.
 - (2) A member of the Panel shall be available and willing to accept an appointment when reasonable and appropriate.
 - (3) A member of the Panel may be removed from the Panel by the Standing Committee for the following reasons:
 - (A) an excessive number of declinations of appointment or requests by an attorney for relief from appointment after entering an appearance; or

(B) failure to comply with the local rules of the court during the pro bono representation of an unrepresented party.

(4) A member may withdraw from the Panel at any time by letter to the clerk.

(d) Attorney Eligibility.

(1) An attorney, law firm, non-profit legal organization, or clinical legal education program at a law school accredited by the American Bar Association (Clinic) may apply for membership on the Panel. The application form is available on the court website [HERE](#). Information on an application may be amended at any time by letter to the clerk.

(2) An application shall include the following:

(A) for a law firm, non-profit legal organization, or Clinic, the name of an individual within the organization to act as Panel Liaison and to receive notices and information from the clerk;

(B) a statement that the applicant, i.e., attorney, Panel Liaison, or Clinic supervisor, is a member in good standing of the bar of this court;

(C) a summary of the civil trial experience or trial advocacy training of the applicant;

(D) the number of appointments per calendar year the applicant will accept; and

(E) the specific types of civil actions or causes of action the applicant will accept.

(e) Pro Se Party Eligibility.

(1) The following unrepresented parties are eligible for appointment of pro bono counsel:

(A) after initial review of the complaint by the Pro Se division of the court, a non-prisoner, unrepresented party who has been granted leave to proceed in forma pauperis (IFP) under 28 U.S.C. § 1915;

(B) after initial review of the complaint by the Pro Se division of the court, an unrepresented prisoner; and

(C) after demonstrating limited financial means, a non-prisoner,

unrepresented party who has paid any filing fee in full.

(f) Appointment Procedure.

- (1) Prerogatives of judicial officers.
 - (A) A judicial officer to whom the civil action is assigned may on motion by an eligible, unrepresented party or on his or her own initiative enter an Appointment Order authorizing appointment of a member of the Panel to represent the party and directing the clerk to select an attorney with a relevant subject matter preference or expertise.
 - (B) In deciding whether to appoint counsel, the judicial officer should consider all relevant circumstances, including, but not limited to, the following:
 - (i) the nature and complexity of the action;
 - (ii) the potential merit of the claims or defenses of the unrepresented party;
 - (iii) the demonstrated inability of the unrepresented party to retain an attorney by other means; and
 - (iv) the degree to which the interests of justice, including the benefits to the court, will be served by appointment of counsel.
- (2) Duties of the clerk.
 - (A) No later than 14 days after the filing of an Appointment Order, the clerk shall select a member of the Panel to represent the unrepresented party using an automated, random selection process.
 - (B) In making the selection, the clerk shall consider the following:
 - (i) the existence of counsel who is willing to accept appointment who is already representing the unrepresented party in another action in this court;
 - (ii) the relevant preference and expertise of the members of the Panel; and

- (iii) the equitable distribution of appointments among the members of the Panel, with preference given to counsel already representing the unrepresented party in another action in this court.
- (C) On selection of a member of the Panel, the clerk shall contact the member and provide relevant, case-specific documents, e.g., complaint, answer, pending motions, etc. For a law firm, clinic, or non-profit legal organization, the Panel Liaison shall select and maintain assignment of eligible counsel. No later than five days after contact, the member shall notify the clerk whether the member is available for appointment.
- (D) On receipt of notice of availability for and acceptance of appointment from the member of the Panel, the clerk shall file a Notice of Appointment and shall serve the unrepresented party with the Appointment Order, the Notice of Appointment, and this rule.
- (E) If after four attempts, the clerk is unable to select a member of the Panel who is available and willing to accept appointment, the clerk shall notify the judicial officer who entered the Appointment Order of the unavailability of counsel.

(g) Duties of Court-Appointed Counsel.

- (1) On receipt of the Notice of Appointment, the attorney shall communicate promptly with the unrepresented party to determine whether any actual or potential conflict of interest exists and whether the action can be resolved more appropriately in another forum or by other means.
- (2) Unless ordered otherwise, no later than 30 days after receipt of the Notice of Appointment, the attorney shall file:
 - (A) an Entry of Appearance under D.C.COLO.LAttyR 5(a); or
 - (B) a Notice Declining Appointment stating good cause for declining the appointment.
- (3) The appointment of pro bono counsel in the designated civil action does not extend to an appeal after final judgment or in any other civil action.
- (4) An attorney appointed under this rule shall represent the unrepresented party from the date of the Entry of Appearance until

- (A) the court permits the attorney to withdraw;
- (B) the case is dismissed;
- (C) the case is transferred to another district or remanded to state court; or
- (D) final judgment is entered.

(h) Fee Agreements.

- (1) As a general rule, the attorney shall represent the unrepresented party without remuneration.
- (2) However, if the unrepresented party is entitled to recover attorney fees or a monetary award or settlement, the attorney and the unrepresented party may enter into a fee agreement permitting the attorney to receive attorney fees that are earned.
- (3) Alternatively, the attorney and the unrepresented party may enter into a contingent fee agreement that complies with the Colorado Rules Governing Contingent Fees.
- (4) Any fee agreement shall be entered into before an Entry of Appearance is filed.
- (5) When a statute authorizes an award of attorney fees to the prevailing party, the attorney shall advise the unrepresented party of the potential award.

(i) Reimbursement of Litigation Expenses from the Reimbursement Fund.

- (1) A member of the Panel providing representation to an unrepresented party may apply to the FFA for reimbursement of litigation expenses.
- (2) The FFA shall have exclusive, final, non-appealable authority over the funds available to it for reimbursement of litigation expenses and the reimbursement of litigation expenses incurred by a member of the Panel in the representation of an unrepresented party.
- (3) The court periodically shall determine the contribution, if any, to the reimbursement fund.

- (j) **Withdrawal from Representation.** An attorney may seek to withdraw from the representation of an unrepresented party by motion to withdraw under D.C.COLO.LAttyR 5(b).

- (k) **Other Pro Bono Representation.** This rule does not preclude an attorney, law firm, or legal organization from providing pro bono representation to an unrepresented party in the absence of court appointment, nor does this rule prevent a judicial officer from requesting an attorney, law firm, or legal organization that is not a member of the Panel to represent an unrepresented party.