

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

THE CIVIL PRO BONO APPOINTMENT PLAN

I. Purpose. The purpose of the Civil Pro Bono Appointment Plan (“the Plan”) is to facilitate the recruitment and appointment of attorneys willing to serve pro bono as appointed counsel to represent pro se civil litigants in cases pending before the Court by providing: (a) pro bono service to litigants who request counsel but lack the financial resources to hire an attorney; (b) pro bono service to the Court in furtherance of the just and efficient administration of its civil docket; and (c) litigation experience to attorneys who seek to increase their familiarity and involvement in federal litigation practice in this Court.

II. Responsibilities of Program Coordinator. The Court has designated an employee of the Court “Program Coordinator”) who will be responsible for:

a. Providing and managing automated mechanisms for interested attorneys to volunteer to serve on the Civil Pro Bono Panel;

b. Receiving, reviewing, and approving applications from attorneys who wish to be appointed to the Panel, including verifying that applicants are in good standing at the bar of this Court with current and adequate malpractice insurance coverage in place;

c. Maintaining and making available to the Court a list identifying those attorneys who have volunteered to serve on the Panel by name, firm affiliation (if any), mailing address, email address, and telephone number;

d. Providing instructions and assistance in the appointment of attorneys and the operation of the Civil Pro Bono Plan when needed; and

e. Determining that a case satisfies the parameters established by the Court and warrants assignment of pro bono counsel.

III. Types of Cases Accepted by the Plan. The types of cases for which an attorney can be appointed if they meet the requirements are: civil rights claims brought by inmates and pretrial detainees under 42 U.S.C. § 1983 which challenge the conditions of confinement or the use of force.

IV. Responsibilities of Participating Attorneys. Any attorney admitted to practice in the Western District of Louisiana, in good-standing, and with current and adequate malpractice insurance may volunteer for the Panel by completing the Civil Pro Bono Counsel Application which is available on the Court’s website: Civil Pro

Bono Counsel Application | Western District of Louisiana | United States District Court. Participating in this Plan is a commitment and Panel attorneys agree that a case will not be declined, and they will not withdraw except on the following grounds:

- a. A conflict of interest precludes the attorney from representing the party in the case;
- b. The attorney believes he/she lacks sufficient experience to represent the party in the case;
- c. Extreme personal incompatibility or disagreement between the attorney and the party material to the litigation strategy that the parties have been unable to resolve through good faith efforts;
- d. Because of the temporary burden of other commitments, the attorney lacks the time necessary to adequately represent the party;
- e. In the attorney's opinion, the party is proceeding solely for the purpose of harassment or to inflict malicious injury; or
- f. The attorney accepted an employment position which no longer allows the attorney to engage in the private practice of law. In such an instance, in addition to filing a motion to withdraw from the appointed case, the attorney should promptly inform the Court and the Program Coordinator so his/her name will be removed from the list of volunteer attorneys.

V. Appointment of Counsel. The Magistrate Judges of this Court may appoint counsel who are listed as Panel members to represent the qualifying cases pursuant to the following standards:

- a. Before determining whether counsel should be appointed from the Panel, the Magistrate Judge assigned to the case must await the pro se individual's (i) filing of a written motion for appointment of counsel, or (ii) making of an oral motion on the record during a hearing.
- b. Appointments of counsel from the Panel may one be made in: (i) cases of the type that are automatically referred to the Magistrate Judges under Local Rule 73.2; (ii) other civil cases in which a Judge of the Court has issues a specific referral order as contemplated by Local Rule 73.3; and (iii) any other civil case in which the Judge refers a motion for appointment of counsel to the assigned Magistrate Judge.
- c. Appointment of counsel from the Panel must be limited only to those individuals who have demonstrated to the Magistrate Judge financial inability to pay privately retained counsel. 28 U.S.C. § 1915(e)(1).

d. Counsel may not be appointed from the Panel until (i) the Magistrate Judge has determined the case should proceed beyond the screening process required in 28 U.S.C. § 1915A, and (ii) the assigned Judge has denied any motion for summary judgment or other dispositive motion, and the deadline for filing dispositive motions has passed.

e. Counsel from the Panel must not be appointed as a matter of course or ordinary practice, since there is no automatic right to appointment of counsel in civil cases, especially in civil rights cases. *Hadd v. LSG-Sky Chefs*, 272 F.3d 298, 301 (5th Cir. 2001); *Castro v. Becken*, 256 F.3d 349, 353-54 (5th Cir. 2001). Instead, in considering motions for appointment of counsel, the Magistrate Judge must apply and briefly address in their appointment orders the appropriate applicable legal standards, including, for example: (i) in civil rights cases, the requirement that “[a] district court should appoint counsel in a civil rights case only if presented with exceptional circumstances,” *Norton v. DiMazana*, 122 F.3d 286, 293 (5th Cir. 1997); *Ulmer v. Chancellor*, 691 F.2d 209, 213 (5th Cir. 1982); based upon consideration of “the type and complexity of the case, the litigant’s ability to investigate and present the case, and the level of skill required to present the evidence,” *Romero v. Becken*, 256 F.3d 349, 355 (5th Cir. 2001), and whether appointment would be a service to the Court and all parties in the case by “sharpening the issues..., shaping the examination of witnesses, and thus shortening the trial and asserting in a just determination.” *Ulmer*, 691 F.2d at 213.

VI. Factors for Appointment. Appointment of counsel shall be at the discretion of the Judges of this Court pursuant to 28 U.S.C. § 1915 and may be made *sua sponte* or upon the application of the party. **Appointment of counsel is not a remark on the merits of the case.** The decision is discretionary and based on several factors including:

- a. The inability of the *pro se* party to retain counsel by other means.
- b. The stage of the proceedings. Pro bono assignments will be made only after dispositive motions have been resolved and the matter is likely to proceed to trial or settlement.
- c. The nature and complexity of the claims as set forth in the pleadings.
- d. The presence of conflicting testimony calling for an attorney’s presentation of evidence and cross-examination.
- e. The capacity of the *pro se* party to litigate the case.

f. The degree to which the interests of justice will be served by the appointment of counsel.

g. Whether reasonable costs and attorneys' fees may be recoverable by the prevailing party.

h. The degree to which the case and Court would benefit from the assistance of counsel prior to any settlement conference.

i. The degree of complexity of necessary discovery.

j. Any other factors deemed appropriate by the Judges.

VII. Notification of Appointment. When the Magistrate Judge grants a motion for appointment of counsel, the order will designate that the appointment is of an attorney from the Civil Pro Bono Counsel Panel. The order will contain a statement describing the parameters of the attorney's representation.

a. The Program Coordinator will direct the Clerk of Court to send a request for pro bono representation to all Panel members. Panel members will be provided PACER access at no cost for a period of 30 days to review the pleadings in the subject case.

b. If, after review, a Panel member wishes to volunteer to represent the pro se prisoner in the subject case, the Panel member will indicate his/her willingness to accept a pro bono assignment by replying to the Court via the link provided in the request for pro bono representation notification.

c. The assigned Magistrate Judge will then select a volunteer from among the volunteering Panel members, and will issue an order: (i) appointing the Panel member to represent the pro se individual, (ii) directing the Clerk to mark that volunteer on the docket sheet of the case as appointed counsel of record for the pro se individual, and (iii) clarifying the scope of the Panel member's representation of the pro se individual, including any limitations upon that scope.

d. If no Panel member volunteers to represent the pro se individual, the assigned Magistrate Judge may select and notify a Panel member of a potential appointment to the case. Upon notification of a potential appointment, the Panel member may decline to accept the appointment for reasonable cause, including, but not limited to, a conflict of interest, a recent appointment in another case, or a prohibitive work schedule.

e. The Court will make its video conferencing facilities available to any attorney who accepts an assignment for the purposes of facilitating attorney-client communication and trial preparation of witnesses.

f. Any volunteer or appointed Panel member may move to withdraw from the case at any time for good cause, including, but not limited to, inability to communicate effectively with the client.

g. For good cause shown, a Panel member may move the Court for a limited amount of further discovery.

VIII. The Pro Bono Expense Fund and Expense Reimbursement. The Court has approved the expenditure of no more than \$50,000.00 payable from the Court's funds for use by the Civil Pro Bono Panel as follows:

a. Pro bono counsel shall be eligible for payment of fees and reimbursement of costs as specified below, which will only be paid upon motion and order of the assigned Magistrate Judge to the Clerk of Court to make payment.

b. Ordinary reimbursable costs, up to \$2,500, are limited to the actual documented cost of case-related (i) long distance telephone and facsimile costs; (ii) photocopying, not to exceed \$.10 per page; (iii) deposition transcripts; (iv) U.S. postage; (v) fees for service of papers and the appearance of witnesses not otherwise voided, waived, or recovered; and (vi) costs of interpreter services not otherwise voided, waived, or recovered.

c. Upon prior approval of the assigned Magistrate Judge, by motion and order, pro bono counsel may be reimbursed for case-related travel (i) by private automobile at the per mile rate then in effect for federal judiciary employees, and (ii) by other means on an actual documented cost basis at the lowest possible fare.

d. Upon prior approval of the assigned Magistrate Judge, by motion and order, pro bono counsel may be reimbursed for the reasonable fees of expert witnesses or investigators at rates deemed appropriate by the assigned Magistrate Judge.

e. Pro bono counsel shall be eligible for payment of a flat attorney's fee in an amount not to exceed \$5,000 per case, which will only be paid upon motion and order of the assigned Magistrate Judge to the Clerk of Court to make payment.

f. Pro bono counsel may only recover expenses and fees associated with the preparation and presentation of a civil action in the United States District Court for the Western District of Louisiana. No fees or expenses associated with the preparation or presentation of an appeal to the United States Court of Appeals for the Fifth Circuit, or the United States Supreme Court, will be awarded by this Court.

g. Attorney's fees and taxable costs may be recovered by counsel appointed from the Panel if allowed under the law applicable to the case to the same extent and in the same manner as applicable to retained counsel in the same kind of case. To the extent that recovered taxable costs are the same as costs already reimbursed to counsel from the Court's funds, the previously reimbursed costs must be refunded by counsel to the Court.

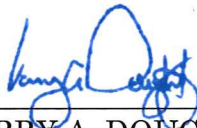
h. Pro bono counsel may not recover (i) general office expenses such as office overhead, payroll, equipment, basic telephone service, and similar expenses; (ii) any expense not properly documented with receipts or other proof found adequate by the assigned Magistrate Judge; (iii) fees for computerized legal research; (iv) in-town travel or meals; and (v) expenses that may be statutorily recovered or costs or fees taxed against a party or appointed counsel.

IX. Waiver of CM/ECF Fees. Attorneys who are appointed under this Plan shall not be charged fees for the use of the Court's electronic filing system in the case on which they are serving as pro bono attorney for a period of 30 days to allow such attorney the ability to review the pleadings.

X. Record of Attorney Appointments. The Plan Administrator will maintain a record of appointments and provide an annual written report to the Chief District Judge.

Nothing in this Resolution affects the ability of any Judge of the Court to appoint law students and supervising attorneys of a law school clinic as counsel in any case as provided in Local rule 83.2.13.

Executed in Lafayette, Louisiana, this 19th day of December 2025.



TERRY A. DOUGHTY
CHIEF JUDGE