

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
\_\_\_\_\_ DIVISION**

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PLAINTIFF	CIVIL ACTION NO.: _____
VERSUS	JUDGE _____
DEFENDANT	MAGISTRATE JUDGE _____

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**ORDER OF APPOINTMENT**

Attorney \_\_\_\_\_ (“Counsel”) is appointed to represent Plaintiff in the above-captioned action pursuant to the Resolution of the En Banc Court Forming a Civil Pro Bono Panel. Counsel must contact Plaintiff via an engagement letter as soon as practicable. Plaintiff is directed to add the name of the appointed attorney to Plaintiff’s master telephone list and to Plaintiff’s attorney list at the institution where Plaintiff is incarcerated; the attorney’s telephone number is \_\_\_\_\_.

The undersigned finds that Plaintiff has demonstrated a financial inability to afford privately retained counsel, as required by 28 U.S.C. § 1915(e)(1).

The undersigned finds that appointing counsel to represent Plaintiff “would aid in the efficient and equitable disposition of the case.” *Jackson v. Dall. Police Dep’t*, 811 F.2d 260, 262 (5th Cir. 1986) (per curiam) (citing *Ullmer v. Chancellor*, 691 F.2d 209, 213 (5th Cir. 1982)). Having considered the factors identified by the Fifth Circuit in *Ullmer v. Chancellor*, the undersigned finds that this case presents “exceptional circumstances”

warranting appointment of counsel. 691 F.2d at 212 (citing *Branch v. Cole*, 686 F.2d 264, 266 (5th Cir. 1982) (per curiam)). Specifically, the undersigned finds \_\_\_\_\_.

[Per the § 3(e) of the Resolution of the En Banc Court, the “Magistrate Judges must apply and briefly address in their appointment orders the appropriate applicable legal standards.” The Magistrate Judge should apply the following factors:

- (1) the type and complexity of the case;
- (2) whether the indigent is capable of adequately presenting his case;
- (3) whether the indigent is in a position to investigate adequately the case; and
- (4) whether the evidence will consist in large part of conflicting testimony so as to require skill in the presentation of evidence and in cross examination.

*Delaughter v. Woodall*, 909 F.3d 130, 140–41 (5th Cir. 2018) (quoting *Ulmer*, 691 F.2d at 213).]

**This representation is limited to the present case, [DOCKET INFORMATION].** Counsel will not represent Plaintiff in any other civil matter, including petitions under 28 U.S.C. § 2254 and motions under 28 U.S.C. § 2255, nor in any criminal matter unless Counsel and Plaintiff execute a separate written agreement to that effect.

**Counsel shall represent the party until final judgment is entered in the action or Counsel is allowed to withdraw by order of the Court.**

- Representation shall include settlement negotiations (if appropriate), preparation for trial, and conduct of trial.
- Representation shall not include discovery practice unless the Court grants a

motion by Counsel for a **limited** amount of additional discovery.

- Representation shall not include dispositive motion practice, but may include evidentiary motions as appropriate.
- Representation shall not include post-trial motion practice under Rules 59 and 60 of the Federal Rules of Civil Procedure nor any appeal of this matter unless Counsel and Plaintiff execute a separate written agreement to that effect.

**Counsel 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.

**Plaintiff may move to relieve the attorney from the representation by motion to the Court**. However, if the Court relieves Counsel on Plaintiff's motion, replacement counsel will only be appointed for good cause shown.

If Plaintiff prevails and attorney fees are awarded under 42 U.S.C. § 1988, **any damage award to Plaintiff will be reduced by the lesser of 25% or the amount of the attorney fees**. This is required under the Supreme Court's interpretation of the Prison Litigation Reform Act. *Murphy v. Smith*, 138 S. Ct. 784 (2018).

The Clerk of Court is directed to enter the appearance of the appointed attorney as counsel for Plaintiff in the docket of this matter. Counsel need not file a separate notice of appearance. The Clerk of Court is also directed to forward a copy of this order to Plaintiff.

The Court grants the appointed attorney a fee waiver with PACER for one year from the date of this order for the Western District of Louisiana documents in this case.

The Clerk of Court is directed to forward a copy of this order to the PACER Service Center so they may administer the fee waiver for PACER Account Number \_\_\_\_\_.

**THUS DONE AND SIGNED** in chambers this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
UNITED STATES MAGISTRATE JUDGE

SAMPLE