

Pro Bono Panel Frequently Asked Questions

1. What expenses are reimbursable?

Pursuant to Civil Local Rule 83.8(a)(2) and the Pro Bono Plan, pro bono counsel may seek reimbursement for “out-of-pocket expenses, necessarily incurred by court-appointed attorneys representing indigents pro bono in civil cases not covered by the Criminal Justice Act....”

- a. What expenses can be reimbursed?
 - i. Any costs set forth in Civ. L.R. 54.1(b) as items taxable as costs at the end of the case are appropriate if they are “necessarily incurred.” These include such items as transcripts, deposition costs, witness fees, and copies (please see the Rule for detailed explanations).
 - ii. Expert witness fees are excluded from the “costs” permitted under Civ. L.R. 54.1(b). However, upon an appropriately supported application submitted to the trial judge, the Court may authorize the payment of expert witness fees as a “necessarily incurred” expense.
- b. Can expenses be paid prior to the end of the case?
 - i. As a matter of course, pro bono counsel will be reimbursed for necessarily incurred expenses at the end of the case. Upon an appropriately supported application submitted to the trial judge, however, the Court may authorize the interim payment of expenses.
 - ii. In the event the represented party recovers costs, any out-of-pocket expenses paid out of the Pro Bono Fund must be redeposited into the fund.
- c. Attorney’s and expert fees may also be awarded to a “prevailing party” “as part of the costs” pursuant to 42 U.S.C. § 1988(b) and (c). However, in civil actions brought by prisoners, 42 U.S.C. § 1997e(d) limits attorney’s fees awards otherwise authorized by 42 U.S.C. § 1988.

2. Can I associate co-counsel?

If an appointed pro bono attorney wishes to associate counsel to assist in the matter, that associated attorney should also be a member of the panel.

3. What types of cases are referred under the Court’s Pro Bono Plan?

The Court may refer any type civil case to pro bono counsel. As a matter of course, the majority of cases are civil rights actions filed by state prisoners under 42 U.S.C. § 1983 alleging constitutional violations in the conditions of their confinement.

4. At what stage of the proceedings are cases referred to pro bono counsel?

The Court may refer a case at any stage of the proceedings. However, most cases are post-summary judgment and ready for trial.

5. How flexible is the Court with regard to previously-set deadlines?

Although it is within the discretion of the individual trial judge, the Court appreciates the commitment of pro bono counsel and where possible will seek to accommodate counsel’s

schedules even as to previously-set deadlines.

6. *How long does the appointment last?*

It is possible the Court could refer a matter for a particular and isolated proceeding, such as pretrial motions or settlement. Otherwise, the appointment is made through the conclusion of matters before this Court.

7. *How often will an attorney or firm be appointed to a new pro bono matter*

The Pro Bono Plan provides that a law firm or attorney will not be appointed to a new matter if they have previously been appointed within the last two years.

8. *What if a Panel attorney or firm cannot accept a case?*

The Pro Bono Plan provides that once a law firm or attorney becomes a member of the panel, the firm or attorney is expected to accept appointment, absent a conflict of interest or the presence of exceptional circumstances. Because the Court has limited resources, it must be able to rely upon the attorneys and law firms who join the Panel to honor their commitment. Nonetheless, nothing in the Plan provides for the imposition of sanctions against a Panel member who must decline an appointment.