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AT SEATTLE
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WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE:
ADOPTION OF PLAN AND RULES FOR PANEL IN CIVIL RIGHTS ACTIONS

GENERAL ORDER

By this order, the Court adopts the "Plan of the United States District Court for the Western District of Washington for the Representation of Pro Se Litigants in Civil Rights Actions," together with the "Rules Governing Pro Bono Panel," in the form attached to this order.

DATED this 28th day of February, 1986.

Walter T. McGovern
Chief United States District Judge

Donald S. Tomlinson
United States District Judge

Carolyn R. Dimmick
United States District Judge

Barbara Rothstein
United States District Judge

John C. Coughenour
United States District Judge

Jack E. Tanner
United States District Judge

AO 72
(Rev.8/82)

PLAN OF THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE
FOR THE REPRESENTATION OF PRO SE LITIGANTS
IN CIVIL RIGHTS ACTIONS

Pursuant to 28 U.S.C. § 1915(d) and 42 U.S.C. § 2000(e)-5(f), the United States District Court for the Western District of Washington at Seattle adopts the following amended plan for furnishing representation to pro se litigants in civil rights actions where the court exercises its discretion to provide such representation. This plan shall govern the appointment of attorneys from the Western District Pro Bono Panel to represent pro se litigants in civil rights actions. For each civil action duly commenced in the Western District at Seattle by such a litigant, the District Judge to whom the action is assigned may issue an order of appointment and other orders relating to representation by the appointed attorney in accordance with this plan and the accompanying Rules. For all purposes, the term Judge shall include a Magistrate.

Section 1. Pro Bono Panel.

(a) Attorneys who are willing to accept appointment to represent pro se litigants in civil rights actions shall apply for designation to the Pro Bono Panel on appropriate forms available from the Clerk of the Court. Each application shall set forth, among other things: (i) the attorney's prior civil trial experience, including the number of trials and areas of trial experi-

ence; (ii) the attorney's ability to consult and advise in languages other than English; and (iii) the attorney's preference area for appointment.

(b) A law firm may apply for designation to the Panel as a firm by completing the appropriate form available from the Clerk. In its application, the law firm shall set forth, among other things: (i) the number of appointed cases per calendar year the firm is willing to accept; (ii) the ability of participating firm attorneys to consult and advise in languages other than English; (iii) the name of the firm's managing partner or a senior member of the firm designated as the Panel Liaison; and (iv) preference area if any. Where an action is assigned to a participating firm, the order of appointment may be directed to the firm and the assignment of a firm attorney to the action may be made by the managing partner or Panel Liaison.

(c) Information on an application may be amended at any time by letter. An attorney or firm may by letter withdraw from the Panel at any time. No attorney will be required to handle more than one action at one time.

(d) An attorney must be admitted to practice in the United States District Court for the Western District of Washington to be eligible for designation as a member of the Pro Bono Panel.

attorney with the consent of the affiliated attorney. In either case, such appointment shall be made in accordance with the provisions of Section 2(c) through (f) of the Plan. The Judge shall have the discretion not to issue a further order of appointment, in which case the party shall be permitted to prosecute the action pro se.

(e) Whenever an attorney seeks to be relieved of an order of appointment on any of the grounds set forth in subparagraphs (iv) or (v) of Rule 2(a), the attorney shall file an application for relief with the Clerk within thirty (30) days after receiving an order of appointment. The application shall set forth in full, the factual and legal basis for the request for relief. The Clerk shall immediately submit the application to a Judge other than the one to whom the case is assigned. The Judge shall either (i) deny the application of the attorney and direct that attorney to proceed with the representation, or (ii) grant the application and direct the Clerk to select another attorney, or (iii) grant the application and permit the party to prosecute the action pro se. If the Judge grants the application and directs the selection of another attorney, the attorney shall be relieved, and the Clerk shall, without revealing the contents of the application to the Judge to whom the case is assigned, forthwith select another attorney to represent the party in accordance with the provisions of Section 2(d) through (f) of the Plan.

(f) Whenever a second attorney selected pursuant to the provisions of Rule 2(e) seeks to be relieved from appointment on

any of the grounds set forth in subparagraphs (iv) or (v) of Rule 4(a), he or she shall file an application for relief in accordance with the provisions of Rule 2(e). The Clerk shall thereupon submit the application for relief of the second appointed attorney to the Judge who reviewed the application for relief of the first attorney. The Judge shall either (i) deny the application of the second attorney and direct that attorney to proceed with the representation, or (ii) grant the application and permit the party to prosecute the action pro se. No further appointments shall be made.

Rule 3. Discharge.

(a) A party for whom an attorney has been appointed shall be permitted to request the Judge to discharge the attorney from the representation and to appoint another attorney. Such a request must be made within twenty (20) days after the party's initial consultation with the appointed attorney or within such additional period permitted by the Judge.

(b) When a request for a discharge under subsection (a) is supported by good cause (e.g., personal incompatibility between the party and the appointed attorney or substantial disagreement between the party and the appointed attorney on litigation strategy), the Judge shall forthwith issue an order discharging the appointed attorney from further representation of the party in the action. In such cases, the Judge may issue a further order directing appointment of another attorney to undertake the representation in accordance with the provisions of Section 2(c)

through (f) of the Plan. The Judge shall have the discretion not to issue a further order of appointment in such cases. In actions where a second attorney is appointed to represent the party, no additional appointments shall be made.

(c) In actions where (i) the party's request for discharge is not supported by good cause, or (ii) the party seeks discharge of a second appointed attorney, the party shall be permitted to prosecute the action pro se. In either case, the appointed attorney shall be discharged from the representation.

Rule 4. Duration of Representation.

(a) An appointed attorney shall represent the party in the action from the date the appearance is entered until a final judgment or appealable interlocutory order is entered in the action.

(b) If the party desires to take an appeal from a final judgment or appealable interlocutory order, if such judgment or order is appealed by another party, or if the matter is remanded to an administrative forum, the appointed attorney is encouraged, but not required, to represent the party on the appeal and in any proceeding, judicial or administrative, that may ensue upon an order of remand.

(c) Where the appointed attorney elects not to represent the party on an appeal or in proceeding upon remand, the attorney shall advise the party of all required steps to be taken in perfecting the appeal or in appearing in the proceeding on remand. Such advice shall include available sources of appointed counsel.

RULES GOVERNING PRO BONO PANEL

Rule 1. Responsibilities of the Appointed Attorney.

(a) Upon receiving a notice of appointment and entering an appearance in the action, the appointed attorney shall promptly communicate with the newly represented litigant concerning the action.

(b) The appointed attorney should discuss fully the merits of the dispute with the party and should explore with the party the possibilities of resolving the dispute in other forums, including but not limited to administrative forums.

(c) If the party decides to prosecute the action after consultation with the appointed attorney, the appointed attorney shall proceed to represent the party in the action, unless or until the attorney-client relationship is terminated as provided in the Rules accompanying this Plan.

(d) Within ten (10) days of receipt of the notice of appointment, the appointed attorney may request an extension of discovery upon written application to the Judge with service on all parties. The Court will consider this request but is not required to grant it.

Rule 2. Relief from Appointment.

(a) An appointed attorney may apply to be relieved of an order of appointment only on the following grounds: (i) a conflict of interest precludes the attorney from accepting the responsibilities of representing the party in the action; (ii) a

personal incompatibility exists between the attorney and the party; (iii) a substantial disagreement exists between the attorney and the party on litigation strategy; (iv) the party is proceeding for purposes of harassment, or malicious injury; or (v) the party's claims are not warranted under existing law and cannot be supported by good faith argument for extension, modification, or reversal of existing law.

(b) Before seeking relief from an order of appointment, the appointed attorney shall determine whether representation can be undertaken by another attorney affiliated with the appointed attorney in a partnership or professional corporation. Where an attorney so affiliated with the appointed attorney is able to represent the party in the action, the appointed attorney shall identify said attorney in the application for relief.

(c) An application by an appointed attorney for relief from an order of appointment on any of the grounds set forth in subparagraphs (i) through (iii) of Rule 2(a) must be made to the Judge within twenty (20) days after the attorney's receipt of the order of appointment or within such additional period permitted by the Judge for good cause shown.

(d) If an application for relief from an order of appointment is granted, the Judge may issue an order directing appointment of another attorney to represent the party. Where the application for relief from appointment identifies an attorney affiliated with the moving attorney who is able to represent the party, such an order may direct appointment of the affiliated

Section 2. Appointment Procedure.

(a) A civil rights action duly commenced by a litigant who appears pro se will be assigned to a Judge in the same manner as any other civil action.

(b) Whenever the assigned Judge concludes that appointment of counsel is warranted because the case meets the requirements of 28 U.S.C. § 1915(d) or 42 U.S.C. § 2000e-5(f), the Judge shall issue an order pursuant to the appropriate section directing appointment of an attorney from the Pro Bono Panel to represent the litigant. (If deemed desireable, the Judge may direct appointment of an attorney not on the Panel or a specific attorney on the Panel who is especially qualified by interest or otherwise to undertake the representation.) This order shall be transmitted forthwith to the Clerk.

(c) After receiving the appointment order from the Judge, the Clerk shall select an attorney from the Panel to represent the litigant in the action, unless the order directs appointment of a specific attorney. Selection by the Clerk shall be made on a random basis from the list of attorneys on the Panel.

(d) The Clerk shall immediately send written notice of the appointment to the selected attorney. A copy of the order of appointment shall accompany the notice. Upon receiving notice of appointment, the appointed attorney shall forthwith enter an appearance in the action. The complete case file shall be made available to the attorney by the Clerk for inspection and copying.

(e) The Clerk shall also send immediate written notice of the appointment, including the name, address, and telephone number of the appointed attorney to the newly represented party and to all other parties or their counsel in the action.

(f) The Clerk shall maintain a record of all appointments. Before assigning an attorney to represent a pro se litigant, the Clerk shall determine whether the litigant has any other case pending before the Court and whether an attorney has been appointed in such case. Whenever an appointed attorney is already representing the litigant in another action, such attorney is encouraged but not required to represent the litigant in the new action. The Clerk shall inquire of the appointed attorney whether he or she will accept appointment in the new action. If the appointed attorney declines, the Clerk shall appoint an attorney, at random, in accordance with this Rule.

Section 3. Expenses.

(a) The appointed attorney or the firm with which the attorney is affiliated shall request the pro se litigant to provide reimbursement for the costs incurred in litigating the action to the extent that the litigant is able to bear such costs. If the litigant is unable to do so, the appointed attorney or the firm with which the attorney is affiliated may apply for reimbursement of reasonable expenses to the Western District Civil Rights Litigation Fund as specified in Section 3(b). If reimbursement is

not available from the pro se litigant or the Litigation Fund, the appointed attorney or the firm with which the attorney is affiliated shall bear the costs of the litigation (e.g., discovery expenses, subpoena fees, transcript expenses).

(b) If the litigant is unable to bear the costs of the litigation, the attorney may apply for reimbursement of reasonable expenses to the Western District Civil Rights Litigation Fund, a non-profit organization formed for the purpose, inter alia, of providing monies for this purpose.

Section 4. Compensation for Services.

(a) If the action is one for which compensation for legal services may become available to the appointed attorney by statute, the Clerk shall so inform the pro se party at the time the order of appointment is issued. The Clerk shall also inform the party at that time that any any statutory fee award may be made only by the Judge at the conclusion of the case.

(b) Upon appropriate application by the appointed attorney, the Judge may grant attorneys' fees to the appointed attorney for services rendered in the action, as authorized by applicable statute, regulation, rules or other provision of law, and as the Judge deems just and proper. In deciding whether to award attorneys' fees the Judge shall consider the relevant statutes and prevailing legal standards.

(c) If, after appointment, the appointed attorney discovers that the party is able to pay for legal services, the attorney shall bring this information to the attention of the assigned Judge. The Judge may thereupon (i) approve a fee arrangement between the party and the attorney, or (ii) relieve the attorney from the responsibilities of the order of appointment and permit the party to retain another or to proceed pro se.

(d) All costs advanced by the Western District Civil Rights Litigation Fund shall be repaid to the Fund if later awarded by the Court to a prevailing pro se plaintiff.

Section 5. Educational Panels.

(a) The Court shall authorize the establishment of panels of attorneys and others experienced in the preparation and trial of civil rights actions involving pro se litigants.

(b) The educational panels are authorized to conduct educational programs for attorneys on the Pro Bono Panel to train and assist said attorneys in the preparation and trial of section civil rights actions involving pro se litigants.

(c) The Clerk is authorized to maintain a list of attorneys experienced in the preparation and trial of civil rights actions involving pro se litigants, whether or not such attorneys serve on an educational panel. Such attorneys may be consulted by attorneys on the Pro Bono Panel as necessary and appropriate.

(d) Each attorney appointed to a civil rights pro se litigant case shall receive a copy of materials prepared for training purposes.

Section 6. Rules and Regulations.

The United States District Court for the Western District of Washington at Seattle shall adopt rules and regulations in accordance with this plan and reserves the right to amend such rules from time to time as the Court deems appropriate.