

RULES GOVERNING PRO BONO PANEL
(AS AMENDED, EFFECTIVE 3/16/90)

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 desires 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 if the party is a prisoner or referring the party back to the Screening Committee if the party is a nonprisoner.

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 attorney with the consent of the affiliated attorney. In either case, such appointment shall be made in accordance with the provisions of Sections 3 and 4 of the Plan. The Judge shall have the discretion not to issue a further order of appointment or referral, 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. 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 in a prisoner case or refer the case to the Screening Committee in a nonprisoner case, 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 3 of the Plan or shall refer the case to the Screening Committee in accordance with the provisions of Section 4 of the Plan.

(f) Whenever a second attorney selected pursuant to the provision 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(d) 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 of an appeal or in proceeding upon remand, the attorney shall advise the party of all required steps to be taken in perfection the appeal or in appearing in the proceeding on remand. Such advice shall include available sources of appointed counsel.