



**PLAN FOR APPOINTMENT OF COUNSEL FOR INDIGENT
PARTIES IN CIVIL CASES**

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA**

October 2018

I. Objective

The objective of this *Plan for the Appointment of Counsel for Indigent Parties in Civil Cases* (Plan) is to facilitate the appointment of pro bono counsel for indigent pro se parties in civil cases when such appointment has been authorized by a judicial officer. To register for appointment on pro bono cases, go to www.vawd.uscourts.gov to the pro bono section of the site.

II. Responsibilities of Pro Bono Coordinator

The Chief Deputy Clerk shall be the Court's Pro Bono Coordinator and shall administer the Plan in the manner set forth below.

III. Responsibilities of Participating Lawyers

All participating lawyers shall be placed on a list, or order of rotation, in alphabetical order by name. Each participating lawyer pledges to assume responsibility for at least one pro bono appointment at a time, if one is available. When a participating lawyer concludes a case, he/she shall advise the Pro Bono Coordinator that the matter has been concluded and they are available to accept an appointment in a new case. Counsel shall also submit a statement that describes the manner in which the matter was resolved.

Participation in this Plan is a commitment that an appointment made as set forth in Section III will not be declined except on the following grounds:

- A conflict of interest precludes counsel from accepting the responsibilities of representing the party in the case.
- The lawyer believes he/she lacks sufficient experience to represent the party in the case.
- Some personal incompatibility exists between counsel and the party, or a substantial disagreement exists between counsel and the party on litigation strategy.
- In counsel's opinion, the party is proceeding for the purpose of harassment or to inflict malicious injury.
- After investigation, counsel determines that the party's claims or defenses are not warranted under existing law and cannot be supported by a good faith argument for extension, modification or reversal of existing law.

IV. Designation of Cases for Pro Bono Representation and Selection of Counsel

A. Whenever a judicial officer determines that there is sufficient cause to appoint counsel for an unrepresented indigent party in a civil case, the judicial officer shall issue an order granting the indigent party's request for the appointment of counsel. The order shall be transmitted to the Pro Bono Coordinator.

B. The Pro Bono Coordinator will contact participating lawyers not currently handling a case, in order of rotation. The Pro Bono Coordinator will provide the case number, name and a brief description of the case when locating counsel.

C. If an appointment is declined in accordance with Section II, the Pro Bono Coordinator shall tender the case to another lawyer in the manner set forth above. Alternatively, the Pro Bono Coordinator may recommend that the judicial officer vacate the order of appointment.

V. Notification of Appointment

After representation has been secured in the case, the Pro Bono Coordinator shall immediately send a letter to appointed counsel confirming the appointment. Counsel should electronically file their notice of appearance on the case and examine the docket sheet for the case on the CM/ECF system to become familiar with the events in the case. For documents not available on the electronic system, copies will be provided by the Clerk's Office.

VI. Scope and Duration of Representation

Any appointment of representation shall be limited solely to those matters at issue before the Court and may be limited to an issue or issues designated by the judicial officer. Appointed counsel shall represent the party in the action until final judgment is entered in the action, or the issue or issues designated by the judicial officer have been resolved, unless a judicial officer grants a motion to withdraw.

If the party desires to take an appeal from a final judgment, appointed counsel may assist the party in filing a notice of appeal without being bound to handle the appeal. In accordance with the *Guidelines Governing the Reimbursement of Expenses in Pro Bono Cases*, no fees, costs or expenses associated with an appeal shall be reimbursed from the fund.

VII. Expenses and Compensation for Services

Unless the court shall otherwise order, the maximum reimbursement shall not exceed \$2,500.00 per case, unless approved in advance by the judicial officer to whom the case is assigned. Within thirty (30) days of the entry of judgment or order of dismissal, appointed counsel may apply for reimbursement from the Court in accordance with the Court's *Guidelines Governing the Reimbursement of Expenses in Pro Bono Cases*.

The acceptance of an appointment on a pro bono basis shall be without prejudice to the assertion of interim or final claims for attorneys' fees and costs under 42 U.S.C. § 1988 or otherwise as provided by law. If appointed counsel successfully obtains an award for his/her client, fees, costs and expenses, amounts reimbursed must be repaid, in whole or in part, if the case is settled with the payment of money, if fees and costs are awarded under 42 U.S.C. § 1988 or any other fee-shifting statute, or if the party is awarded monetary damages. The amount of the reimbursement shall be determined by the presiding judicial officer.

If after appointment, appointed counsel discovers that the party is able to pay for legal services in whole or in part, the attorney may bring that information to the attention of the judicial officer. Thereupon the judicial officer may (1) approve the entry into a fee agreement between the party and the attorney or (2) relieve the attorney from the responsibilities of the order of appointment and permit the party to retain another attorney or proceed pro se.

REVISION CONTROL LOG

Section Revised	Date Revised	Reason for Revision	Judicial Approval