

GENERAL ORDER No. 25  
APPOINTMENT AND REIMBURSEMENT OF PRO BONO COUNSEL

In civil cases in which a party is not represented, the Court may appoint pro bono counsel. The Court's programs designed to secure pro bono counsel will be known collectively as "the Federal Pro Bono Project" ("Project"). The Court may contract with community legal services organizations to carry out the goals of the Project.

**I. Eligibility and order of referral**

**A. Eligibility**

To be eligible for appointment of pro bono counsel through the Project, a civil case must meet the following criteria:

1. The litigant must be unrepresented by counsel;
2. The unrepresented litigant must not have the financial resources to retain counsel;
3. The unrepresented litigant must have used reasonable efforts to retain private counsel such as through a California State Bar-approved lawyer referral service, or have demonstrated that such efforts would be futile; and
4. The referring judge must determine that the case merits pro bono representation because the litigant's claims are cognizable and the factual and legal issues warrant proper presentation to the Court with the assistance of an attorney, but not necessarily that the litigant is likely to prevail on the merits.

**B. Referral for appointment of counsel; stay of proceedings**

**1. Referral to Legal Help Center**

Before referring a case for pro bono placement, the referring judge should first direct an unrepresented non-prisoner civil litigant to visit a Court-sponsored Legal Help Center (located at the San Francisco, Oakland and San Jose courthouses). Staff at the Legal Help Center will assess whether (1) the case meets the eligibility criteria set forth in section I.A(1-3) and (2) qualified counsel likely can be located. If appropriate, the Legal Help Center staff may assist a litigant in drafting a motion for appointment of counsel and may attach a letter in support of the motion.

**2. Order referring case for appointment and stay of proceedings**

After successful assessment of the unrepresented litigant pursuant to section B.1., the referring judge, upon motion or sua sponte, should issue an order referring the case to the Project for appointment of pro bono counsel.

**Initial four-week stay.** The order referring a case for appointment of pro bono counsel generally should provide for a four-week stay to allow the Project time to place the case with pro bono counsel. If a shorter stay (or no stay) is provided, the order should state that clearly.

**Sending order to the Project.** The Clerk shall email the order of referral to the designated Legal Help Center for the appropriate division.

### **3. Scope of appointment**

The order of referral may direct the appointment of counsel for full scope or limited scope representation. Examples of the latter include representation at a settlement conference, taking or defending a deposition, drafting an opposition to a dispositive motion, or for trial.

## **II. Identification and appointment of pro bono counsel**

### **A. Identifying counsel**

Within four weeks of the order of referral, the Project will inform the referring judge by email of the name(s) of pro bono counsel available to take the case or that none has been identified. In the latter instance, the judge may extend the time to find pro bono counsel or lift the stay and proceed with the case.

### **B. Appointment of counsel; further stay of proceedings**

Upon receiving the name(s) of pro bono counsel, the referring judge should issue an order appointing counsel forthwith and generally should provide for a further four-week stay to give appointed counsel sufficient time to review the case file, meet with the client and conduct any necessary factual investigation and legal research. If a shorter stay (or no stay) is provided, the order appointing counsel should state that clearly. The Clerk shall email the order appointing counsel to the designated Legal Help Center for the appropriate division.

### **C. End of limited scope representation**

When pro bono counsel appointed for limited scope representation has completed its obligations, the referring judge should enter a further order terminating the representation. Counsel or the Project may request such an order.

## **III. Pro bono representation**

### **A. Communication with litigant**

After entry of the order appointing counsel, the appointed attorney shall promptly contact the litigant and diligently and competently represent their interests, consistent with the scope of appointment.

### **B. Pro hac vice fees**

An attorney appointed to provide legal representation without compensation through the Project is exempt from paying the pro hac vice filing fee. An attorney not a member of the bar of the Northern District must, however, meet all other requirements for pro hac vice admission.

### **C. Withdrawal of counsel**

Pro bono counsel should move to withdraw from a case only in circumstances permitted by law (e.g., the representation is inconsistent with ethical rules). Pro bono counsel must consult with Project staff before filing a motion to withdraw.

#### **D. Attorney fees**

This General Order does not preclude an attorney from recovering attorney fees and costs awarded to the plaintiff as the prevailing party or as part of a negotiated settlement. This General Order should not be construed to require a litigant represented by pro bono counsel to waive an award of attorney fees and costs as a condition of settlement. Pro bono counsel negotiating a settlement that also resolves the issue of attorney fees and costs must be mindful of potential conflicts of interest to ensure the litigant's interests are not unfairly compromised.

#### **E. Litigant becomes financially ineligible**

If at any time the referring judge determines that the litigant can afford private counsel, the judge should enter an order terminating the pro bono appointment either sua sponte or upon motion by the appointed attorney. Counsel and the litigant may then agree upon a fee arrangement for continued representation. If the litigant's financial condition makes them ineligible under the criteria set forth in section I.A, the litigant may be ordered to repay fees and costs that were reimbursed pursuant to Section IV, if the judge deems just.

### **IV. Reimbursement**

#### **A. Amount and scope**

1. Counsel may seek reimbursement of up to \$25,000 for reasonable, necessary costs of litigating the case.
2. A non-exhaustive list of reimbursable costs includes:
  - Actual costs of copying;
  - Service of process and delivery service;
  - Filing fees;
  - Expert consultant and witness fees;
  - Reasonable travel costs for attorney;
  - Reasonable investigation costs; and
  - Deposition or transcript costs. When applicable, pro bono counsel must attempt to seek reimbursement for transcript costs from the State of California's Transcript Reimbursement Fund (TRF), Cal. Bus. & Prof. Code § 8030.2 et seq., before applying for reimbursement of such costs from Court funds. The TRF reimburses for deposition and court transcripts provided by California-certified court reporters only.

#### **B. Process for cost reimbursement**

##### **1. Request for reimbursement; pre-approval requirement**

Any single cost over \$2,500 requires pre-approval by the judge. Such request shall be submitted in the form of a letter to the judge explaining why the cost is reasonable and necessary. Failure to timely follow this process may result in a denial of reimbursement.

Pro bono counsel shall submit a reimbursement request in the form of a letter to the judge explaining why the reimbursable costs claimed are reasonable and

necessary to the representation along with copies of receipts, a Form W-9, and, if applicable, the approval date of any pre-approved cost. Additional ex parte briefing may be required by the judge.

Counsel shall email the request to both the judge's courtroom deputy and to the designated Legal Help Center for the appropriate division, but not serve it on opposing counsel nor file it on the docket.

**2. Deadline for submitting request**

The reimbursement request should be submitted no later than 180 days after either the case is closed or, in the case of limited-scope representation, the order terminating the representation is entered. The referring judge may extend this deadline for good cause shown.

**3. Approval process**

If the referring judge finds the reimbursable costs claimed reasonable and necessary, the judge should forward the request to the Chair of the Non-Appropriated Fund Committee for approval of payment. The Finance Unit of the Clerk's Office will retain the documentation in accordance with its document retention policies.

**C. Refund of reimbursement**

Reimbursed costs shall be repaid to the Court upon recovery of judgment or monetary settlement, up to the amount of such recovery. Pro bono counsel may request an exemption from this provision if the refund of costs would consume an unreasonable portion of the litigant's recovery. Such a request should be made ex parte, following the process set forth in section IV.B.

Funds received through California's Transcript Reimbursement Fund must be repaid pursuant to Cal. Bus. & Prof. Code § 8030.2, et seq., within 90 days.

**D. Attorney fee reimbursement**

In compelling cases (e.g., where representation has caused financial hardship), pro bono counsel may request attorney fee reimbursement of up to \$25,000 at rates commensurate with Criminal Justice Act rates for this district, following the same procedures as cost reimbursement in section IV.B.

ADOPTED: October 13, 1982  
AMENDED: November 28, 2007  
AMENDED: September 15, 2009  
AMENDED: January 17, 2012  
AMENDED: October 21, 2016  
AMENDED: June 6, 2022  
AMENDED: February 21, 2025

FOR THE COURT:



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RICHARD SEEBORG  
CHIEF JUDGE