

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI`I

IN THE MATTER OF THE) ORDER AMENDING THE RULES
AMENDMENT OF THE RULES) FOR CIVIL PRO BONO PANEL
FOR CIVIL PRO BONO PANEL) FOR THE UNITED STATES
FOR THE UNITED STATES) DISTRICT COURT OF THE
DISTRICT COURT OF THE) DISTRICT OF HAWAI`I
DISTRICT OF HAWAI`I)
_____)

ORDER AMENDING THE RULES FOR CIVIL PRO BONO
PANEL FOR THE UNITED STATES DISTRICT
COURT OF THE DISTRICT OF HAWAI`I

IT IS HEREBY ORDERED that the attached "Rules For
Civil Pro Bono Panel For The United States District
Court of the District of Hawai`i" (Exhibit A) is
adopted by the United States District Court, District
of Hawai`i and is effective immediately.

IT IS SO ORDERED.

Dated: Honolulu, Hawaii, May 3, 2021.

/s/ J. Michael Seabright
Chief United States District Judge

/s/ Leslie E. Kobayashi
United States District Judge

/s/ Derrick K. Watson
United States District Judge

/s/ Jill A. Otake
United States District Judge

RULES FOR CIVIL PRO BONO PANEL
FOR THE UNITED STATES DISTRICT COURT
OF THE DISTRICT OF HAWAI`I

Rule 1. Establishment of the Civil Pro Bono Panel.

(A) The Civil Pro Bono Panel ("Panel") shall consist of attorneys who are members in good standing to practice in the District Court for the District of Hawai`i and who have agreed to accept pro bono appointments to represent indigent pro se litigants in civil cases in the District Court for the District of Hawai`i.

(B) The Chief Judge shall appoint a Standing Committee ("Committee") for the Panel to implement and oversee the Panel. The Committee shall include at least one District Judge, one Magistrate Judge, one representative from the Federal Bar Association (Hawai`i Chapter) ("FBA Pro Bono Liaison"), and up to two attorneys who are members in good standing to practice in the District Court for the District of Hawai`i. The Committee's responsibilities shall include designating one of its non-judicial members to serve as the "Pro Bono Coordinator" and preparing an

annual report to the Chief Judge regarding the operation of the Panel. The annual report should include information such as the number of cases handled and identify the attorneys who accepted appointment.

(C) The Committee is empowered to recommend modifications to these Rules as needed. The court retains the authority to approve or disapprove any recommendations by the Committee and to modify the scope of the Committee's authority at any time.

Rule 2. Qualifications For And Application To Pro Bono Panel.

(A) Attorneys who are members in good standing and admitted to practice in the District Court for the District of Hawai`i may apply for appointment to the Panel. Applicants for the Panel should be willing to assist or represent indigent pro se litigants in civil cases before this court at least one time per year as requested by the court and without compensation.

Notwithstanding that attorneys appointed to the Panel must be willing to serve without compensation, pro bono

counsel may seek fees from an opposing party or parties when authorized by law.

(B) Attorneys and law firms willing to accept appointment to represent indigent pro se parties in civil cases may apply to join the Panel by submitting the letter application set forth in **Form 1** to the Clerk of Court (who shall collate and provide copies to the Chief Judge and the Committee).

(C) Information on an application may be amended at any time by letter to the Clerk of Court. Any attorney, law firm, or Clinic may withdraw from the Panel at any time by letter submitted to the Clerk of Court; provided, however, that if said attorney, law firm, or Clinic is then representing a client by appointment from the Panel, said representation may only end as authorized by these Rules and/or court order.

(D) Applicants will be notified by letter from the Committee whether the application is approved. A list of approved applicants will be posted on the court's

website.

Rule 3. Appointment of Counsel.

(A) The presiding judge to whom a civil case is assigned may, on motion by the pro se litigant or *sua sponte*, indicate his/her intention to appoint an attorney from the Panel to represent a pro se litigant. The presiding judge will enter an order referring the case to the Panel, which order will be mailed to the pro se litigant and docketed on the court's electronic case filing system.

(B) Upon the filing of the Referral Order, the FBA Pro Bono Liaison shall seek to secure an attorney from the Panel to represent the pro se litigant, taking into consideration the experience and preferences of these attorneys regarding specific types of cases.

(C) Once an attorney has been secured by the FBA Pro Bono Liaison, the attorney shall enter a Notice of Appearance as set forth in **Form 2** and provide a copy of it to the FBA Pro Bono Liaison. To avoid ex parte communication between court staff and prospective pro

bono counsel, the FBA Pro Bono Liaison will serve as the intermediary between the attorney and the Court in arranging the attorney's appointment as pro bono counsel for the pro se litigant. The FBA Pro Bono Liaison will use reasonable efforts to complete appointment within sixty (60) days of the Referral Order or as otherwise ordered by the Court in the event pro bono assistance is required for an event occurring in less than sixty (60) days. The FBA Pro Bono Liaison may request additional time from the Court to complete the appointment. If no appointment can be made, the FBA Pro Bono Liaison shall notify the Court so that the presiding judge may make an appropriate docket entry.

(D) Upon filing the Notice of Appearance, the pro bono counsel is counsel of record for the pro bono litigant. Pro bono counsel may submit a motion for waiver of PACER fees as set forth in **Form 3**. If granted, the pro bono counsel may access the docket in the case at no charge. Nothing herein limits the

ability of pro bono to seek withdrawal pursuant to LR83.5.

Rule 4. Limited Purpose Representation.

(A) Any appointment for representation shall be limited solely to the identified litigation before the court and may be limited to specific issue(s) or specified tasks as designated by the presiding judge. Pro bono counsel shall represent the pro bono litigant in the action until the earlier of (1) final judgment is entered in the action, (2) the issue(s) or specified task(s) designated by the presiding judge have been resolved at the trial court level, or (3) the presiding judge grants a motion to withdraw as counsel.

(B) When pro bono counsel is appointed to provide representation for a specific issue(s) or specified task(s), the order of appointment shall include a finding to the effect that, under the circumstances of the case and in the judgment of the presiding judge, limited purpose representation is reasonable and appears reasonably calculated to serve the interests of

the parties and to further the administration of justice.

(C) When representation has concluded because the issue(s) or specified task(s) designated by the presiding judge have been resolved at the trial level, the presiding judge shall enter an order terminating pro bono representation as set forth in **Form 4**.

However, nothing in these rules shall prohibit pro bono counsel from further representing the pro bono litigant provided both agree in writing to the further representation.

Rule 5. Expenses.

(A) In the interest of the administration of justice, the court authorizes funding for allowable litigation costs and expenses incurred by court-appointed pro bono counsel on behalf of a pro bono litigant. Funds for allowable litigation costs and expenses shall be allocated from the District of Hawaii's non-appropriated funds. Continued funding each year is subject to annual court review and

approval. Non-appropriated funds may also be used for training of pro bono counsel or for other purposes that the court may determine will advance the goal of access to justice and support the continuation of the Panel and Committee.

(B) Allowable litigation costs and expenses include reasonable expenses incurred for travel, lodging, process services, filing fees, expert fees, witness fees, interpreter services, costs as set forth in LR54.1(f)(1)-(6), and any other costs or expenses permitted to be claimed in taxation of costs awarded to a prevailing party as provided in Fed. R. Civ. P. 54(d)(1). Travel expenses include public transportation as well as mileage for private vehicles (at the rate of reimbursement for official government travel in effect at the time the expense is incurred), parking fees and other similar costs.

(C) In the event that costs or expenses paid from the District of Hawai`i non-appropriated funds are subsequently recovered as a cost or expense from an

opposing party, the pro bono counsel will reimburse the court as directed by the presiding judge.

Rule 6. Reimbursement of Allowable Costs and Expenses.

(A) For allowable litigation costs and expenses, pro bono counsel may request reimbursement at the conclusion of the appointment or during the appointment if circumstances warrant. Copies of receipts, bills and invoices must be attached to the request as set forth in **Form 5** and filed in the case under seal. The presiding judge shall review the request for reimbursement and issue an order of approval or disapproval. If approved, a copy of the order will be transmitted by the Clerk of the Court to the Court's Finance Department for issuance of payment to pro bono counsel. An approval of payment of costs to the pro bono counsel shall have no bearing on a request for taxation of costs to an opposing party or opposing counsel.

(B) Reimbursement of allowable litigation costs and expenses is limited in each appointment to \$1,500,

unless approved in advance by the presiding judge. Upon appointment, pro bono counsel should review the matter as soon as possible to determine a budget for anticipated allowable litigation costs and expenses. If pro bono counsel determines at any time that more than \$1,500 in allowable litigation costs and expenses will be necessary, then additional funds may be requested by filing a motion under seal with the proposed budget and justification as set forth in **Form 6**, after which the presiding judge will decide whether or not to approve the proposed budget, in whole or in part. Pro bono counsel who does not submit a budget and obtain court approval but incurs more than \$1,500 in allowable litigation costs and expenses and subsequently requests reimbursement runs the risk of having reimbursement denied.

(C) Reimbursement will not be permitted for costs personally taxed against pro bono counsel or pro bono litigant, or for costs paid by an adverse party. In matters where the pro bono litigant obtains a judgment

or settlement in excess of \$6,000, reimbursement of and allowable litigation costs and expenses incurred by pro bono counsel is at the discretion of the presiding judge.

FORM 1 - LETTER APPLICATION

RE: Letter Application Seeking Appointment to Civil Pro Bono Panel for the District of Hawai`i

Dear

I am interested in being appointed to the Civil Pro Bono Panel for the District of Hawai`i. I am willing to assist or represent indigent pro se litigants in civil cases at least one time per year as requested by the federal court and without compensation.

My legal experience is [indicate information]

_____ I have practiced law for _____ years, and am a member in good standing and admitted to practice in the District Court for the District of Hawai`i.

_____ I am a recent law school graduate of [name of law school] and am a member in good standing and admitted to practice in the District Court for the District of Hawai`i.

_____ [Law Firms] The firm has ___ attorneys who are members of good standing and admitted to practice in the District Court for the District of Hawai`i . The firm's attorneys have - years of law practice.

My preferences for appointment are in the following areas [for instance, employment, religious or racial discrimination, civil rights, habeas corpus, Federal Tort Claims Act, social security appeals]:

1 .

2 . _____

3 . _____

Other languages spoken:

Very truly yours,

FORM 2 - NOTICE OF APPEARANCE

Pursuant to the court's order appointing pro bono representation in the above-referenced action, the undersigned hereby respectfully gives notice of his/her appearance on behalf of _____ and requests to receive electronic service filings via CM/ECF. By filing this notice of appearance, the undersigned confirms (i) based on the current facts and circumstances available, that no conflict of interest or other rule of professional conduct would preclude the undersigned's representation of the pro se litigant; and (ii) that the undersigned has obtained a letter of consent from _____ to this representation.

**FORM 3 - Plaintiff's/Defendant's Motion for Waiver
of Pacer Fees**

MOTION FOR WAIVER OF PACER FEES

Comes now PLAINTIFF/DEFENDANT and hereby files his/her motion for an order granting waiver of PACER fees. Counsel has been appointed as pro bono counsel in the above-referenced action pursuant to the Rules for Civil Pro Bono Panel for the United States District Court for the District of Hawai`i and waiver of PACER fees will assist in representing PLAINTIFF/DEFENDANT.

This motion is made pursuant to Rule 3(D) of the Rules for Civil Pro Bono Panel for the United States District Court for the District of Hawai`i.

FORM 4 - Court Order Terminating Pro Bono Representation

ORDER TERMINATING PRO BONO REPRESENTATION

The Court, having determined that representation has concluded pursuant Rule 4(C), Rules for Civil Pro Bono Panel for the District Court for the District of Hawai`i, hereby terminates *[attorney's name]* as pro bono counsel for *[party's name]* in the instant action.

IT IS SO ORDERED.

FORM 5 - Request for Reimbursement of Allowable Costs and Expenses [Filed Under Seal]

REQUEST FOR REIMBURSEMENT OF ALLOWABLE COSTS
AND EXPENSES

Comes now PLAINTIFF/DEFENDANT and hereby files his/her request for reimbursement of allowable costs and expenses as provided by Rule 6(A) of the Rules for Civil Pro Bono Panel for the United States District Court of the District of Hawai`i. By signing this request, counsel represents under penalty of perjury that the costs and expenses being sought for reimbursement were reasonable and necessary for the representation of PLAINTIFF/DEFENDANT and were actually incurred in the prosecution/defense of his/her case, and that the copies of receipts, bills and/or invoices attached hereto as "Exhibit A" are true and correct copies.

Good cause exists for the filing of the request under seal as this procedure is specifically mandated by Rule 6(A) of the Rules for Civil Pro Bono Panel for the United States District Court of the District of Hawai`i, and public filing would likely result in the

disclosure of attorney-client communications
and/or attorney work product.

This request is made pursuant to Rule 6(A) of
the Rules for Civil Pro Bono Panel for the United
States District Court of the District of Hawai`i, the
representations of Counsel, and Exhibit A.

FORM 6 - Budget Request

UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF HAWAI`I

Budget for Pre-Approval of Out-of-Pocket Funds pursuant to the Civil Pro Bono Program,	Case Name:
	Case Number:

Attorney, Law School, or Student Intern Information:	
Name:	Phone:
Address:	Email:
Person Represented:	
<p><i>Complete and submit budget section for pre-approval when estimated expenses exceeds \$1,500. An estimate of the total additional amount needed to complete the case should be provided, so the Court can set a specific dollar amount in excess of the limit. If you find it essential to exceed the approved amount, a further application should be made, with a proposed case budget.</i></p>	
BUDGET:	
Original Budget: \$	
Increase Requested:	
Deposition or Transcript	Witness Fees: \$
Costs: \$	Expert Witness
Travel Expenses ¹ :..\$	Fees: \$
Telephone/Postal	Interpreter Fees:..\$
Charges: \$	Other: \$
Court Fees: \$	
Copies: \$	
Total Increase	

in Budget: .\$.

Detailed Justification (*Include enough information for the Court to understand the need to exceed the prior limit*):

APPROVED FOR \$ _____

JUDGE OF THE ABOVE ENTITLED COURT

° To be limited to actual lodging and meal expenses for the pro bono attorney in an amount not to exceed the government per diem allowance provided for court personnel.