

CIVIL PRO BONO PROJECT
Fourth Judicial District, State of Colorado

Effective January 1, 2018

1. ATTORNEY PRO BONO REPRESENTATION

(a) Court Appointed Pro Bono Representation in Civil Actions. The Civil Pro Bono Project of the Fourth Judicial District (“Project”) provides a mechanism for the designation and appointment of volunteer attorneys to represent, without compensation, eligible unrepresented parties in civil actions when requested by the court. The program is implemented through the Standing Committee for the Civil Pro Bono Project (“Standing Committee”), the Civil Pro Bono Panel (“Panel”), and the Pikes Peak Justice and Pro Bono Center (“JPBC”).

(b) Standing Committee: Composition, Mission, and Authority.

(1) The Chief Judge of the Fourth Judicial District shall appoint the members of the Standing Committee for the Project. The Standing Committee shall include one district court judge, one county court judge, one magistrate, and one representative from each of the following organizations: the El Paso County Bar Association; the Fourth Judicial District Access to Justice Commission; the JPBC, a private attorney or law firm, Colorado Legal Services, a past or present Self Represented Litigant Coordinator, and a past pro bono litigant, preferably one who was appointed counsel through the Project.

(2) The purpose and mission of the Standing Committee is to oversee the Panel, report annually to stakeholders on the status of the Project, and promote meaningful access to the court by unrepresented parties.

(3) Decisions of the Standing Committee shall be made by majority vote of those present at a meeting of the Committee.

(c) Panel Membership and Removal. The Panel is comprised of a list of attorneys, law firms and nonprofit legal organizations that have indicated a willingness to accept appointment on a pro bono basis for designated types of cases involving eligible, unrepresented parties in civil actions.

(1) A member of the Panel shall be an attorney who is a member in good standing with the Colorado Supreme Court, a law firm, or a nonprofit legal organization. Any law firm or nonprofit legal organization shall designate as its representative an attorney who is a member in good standing with the Colorado Supreme Court.

(2) A member of the Panel shall be available and willing to accept an appointment when reasonable and appropriate.

(3) A member of the Panel may be removed from the Panel by the Standing Committee for the following reasons:

- (A) an excessive number of declined appointments;
- (B) an excessive number of requests by an attorney for relief from appointment after entering an appearance; or
- (C) failure to comply with applicable procedural and ethical rules during the pro bono representation.

(4) A member may withdraw from the Panel at any time by letter to the Executive Director of the JPBP (“Administrator”), who shall serve as the administrator of the Project.

(d) Panel Eligibility.

(1) An attorney, law firm, or nonprofit legal organization must apply for membership on the Panel. The application form is available on the court website [INSERT LINK]. Information on an application may be amended at any time by letter to the Administrator.

(2) An application shall include the following:

(A) for a law firm or nonprofit legal organization, the name of an individual within the organization to act as panel liaison and to receive notices and information from the clerk;

(B) a statement that the applicant, i.e., attorney or panel liaison, is a member in good standing of the bar of this court;

(C) a summary of the civil trial experience or trial advocacy training of the applicant;

(D) the number of appointments per calendar year the applicant is willing to accept;

(E) whether the applicant is willing to serve only as a mentor or mentee, and if so, which role; and

(E) the specific types of civil cases the applicant will accept.

(e) Pro Se Party Eligibility.

(1) The following unrepresented parties are eligible for appointment of pro bono counsel:

(A) a non-prisoner, unrepresented party who has been granted leave to proceed in forma pauperis (“IFP”);

(B) after demonstrating limited financial means, a non-prisoner, unrepresented party who has paid the filing fee.

(f) Appointment Procedure.

(1) Prerogatives of judicial officers.

(A) A judicial officer to whom a civil matter is assigned may on motion by an eligible, unrepresented party, or on his or her own initiative, enter an Appointment Order **[INSERT LINK]** authorizing the conditional appointment of a Panel member to represent the party and directing the Administrator to select the next available Panel member with relevant subject matter preference or expertise.

(B) In deciding whether to appoint a Panel member, the judicial officer should consider all relevant circumstances, including, but not limited to, the following:

(i) the nature and complexity of the action;

(ii) the potential merit of the claims or defenses of the unrepresented party;

(iii) the demonstrated inability of the unrepresented party to retain an attorney by other means; and

(iv) the degree to which the interests of justice, including the benefits to the court, will be served by appointment of counsel.

(2) Duties of the Administrator.

(A) No later than fourteen (14) days after the filing of an Appointment Order, the Administrator shall select the next available Panel member to represent the unrepresented party using an automated selection process.

(B) In making the selection, the Administrator shall consider the following:

- (i) whether there is a Panel member who is willing to accept appointment who is already representing the unrepresented party in another action in this court;
- (ii) the relevant subject matter preference of the Panel members; and
- (ii) Whether it is possible to match a mentor and mentee for the type of case referred for appointment.

(C) Once a Panel member has been determined, the Administrator shall contact the Clerk of Court and the Panel member and provide the case number of the referred case. For a law firm or nonprofit legal organization, the Panel liaison shall select and maintain assignment of eligible counsel within the law firm or organization. The Clerk of Court shall grant the referred panel member access to the jPOD file for the referred case. No later than five days after contact, the member shall notify the Administrator whether the member is available for Panel appointment.

(D) On receiving acceptance of appointment from the Panel member, the Administrator shall notify the Clerk of Court and the Clerk shall file a Conditional Notice of Appointment **[INSERT LINK]** and serve the unrepresented party and all other parties with the Appointment Order, the Conditional Notice of Appointment, and this rule.

(E) If after four attempts, the Administrator is unable to select a Panel member who is available and willing to accept appointment, the Administrator shall notify the judicial officer who entered the Appointment Order of the unavailability of counsel.

(g) Duties of Court-Appointed Counsel.

(1) On receipt of the Conditional Notice of Appointment, the panel member shall communicate promptly with the unrepresented party to determine whether any

actual or potential conflict of interest exists and whether the action can be resolved more appropriately in another forum or by other means.

(2) Unless ordered otherwise, no later than fourteen (14) days after receipt of the Conditional Notice of Appointment, the attorney shall file:

(A) an Entry of Appearance under C.R.C.P. 121, §1-1(1)(a); or

(B) a Notice Declining Appointment **[INSERT LINK]** stating good cause for declining the appointment.

(3) The appointment of a panel member in the designated civil action does not extend to any appeal after final judgment.

(4) The appointment of a panel member in the designated civil action does not extend to any other civil action.

(5) An attorney appointed under this rule shall represent the unrepresented party from the date of the Entry of Appearance until:

(A) the terms of any limited engagement agreement between counsel and the client has been completed

(B) the court permits the attorney to withdraw;

(C) the case is dismissed; or

(D) final judgment is entered.

(h) Fee Agreements.

(1) As a general rule, the panel member shall represent the unrepresented party without remuneration.

(2) However, if the unrepresented party is entitled to recover attorney fees or a monetary award or settlement, the attorney and the unrepresented party may enter into a fee agreement permitting the attorney to receive attorney fees that are earned;

(3) Alternatively, the attorney and the unrepresented party may enter into a contingent fee agreement that complies with the Colorado Rules of Procedure governing contingent fees.

(4) Any fee agreement shall be entered into before an Entry of Appearance is filed.

(5) When a statute authorizes an award of attorney fees to the prevailing party, the attorney shall advise the unrepresented party of the potential award.

(6) An Appointment Order entered under this rule operates as a judicial determination that the client is entitled to proceed *in forma pauperis*, unless otherwise provided in the Appointment Order.

(i) Withdrawal from Representation. An appointed attorney may seek to withdraw from the representation by filing a motion to withdraw under C.R.C.P. 121, §1-1(2), (3).

(j) Other Pro Bono Representation. This rule does not preclude an attorney, law firm, or legal organization from providing pro bono representation to an unrepresented party in the absence of court appointment, nor does this rule prevent a judicial officer from requesting an attorney, law firm, or legal organization that is not a member of the Panel to represent an unrepresented party.