

Administrative Guidelines for Implementing Local Rule 83.4 (Limited Appearance by *Pro Bono* Counsel in Certain Civil Cases) in Prisoner Civil Rights Cases

(a) Decision to request volunteer *pro bono* counsel.

- (1) The court may request volunteer *pro bono* counsel for self-represented litigants in civil rights suits upon consideration of the following factors:
 - [A] whether the litigant is incarcerated;
 - [B] whether the litigant has filed *in forma pauperis* pursuant to D.Ak. L.R. 3.2 or has otherwise demonstrated an inability to afford counsel;
 - [C] whether the litigant is likely to work effectively with counsel;
 - [D] whether the claims at stake are so complex, or so important, that a litigant may be prejudiced without the assistance of counsel; and
 - [E] any other factor the court deems relevant.
- (2) The court may make such a request either *sua sponte* or upon application by the litigant.
- (3) The request for an appointment may be all-purpose or limited in scope. Limited-scope appointments may be requested for such purposes as amendment of the pleadings, settlement conferences, dispositive motions, depositions, discovery, hearings, trial, or any other function the court deems appropriate.

(b) Identification and selection of counsel.

- (1) The court's decision to request the appointment of volunteer *pro bono* counsel does not give rise to a right to counsel. The actual appointment of counsel depends on the availability of a willing and qualified attorney.
- (2) When volunteer *pro bono* counsel has been requested, the Court's Pro Se Staff Attorney will forward a generic description of the case to the Court website and to the Alaska Chapter of the Federal Bar Association, American Civil Liberties Union of Alaska, and the Alaska Bar Association. This generic description and request for a volunteer *pro bono* attorney shall also be entered as a notice in the case's public docket.

- (3) A database of *pro bono* attorneys shall be maintained by the Court's Pro Se Staff Attorney. If the court has made a request for a volunteer attorney, the database shall be used to identify an attorney willing and able to accept the appointment. The case's assigned judge will have no role in the selection of a *pro bono* attorney.
- (4) Attorneys accepting appointments under Local Rule 83.4 shall certify compliance with Alaska Rule of Professional Conduct 1.4(c) regarding malpractice insurance disclosure.
- (5) Any limited representation provided under Local Rule 83.4 shall comply with Alaska Rule of Professional Conduct 1.2 regarding the scope of representation and allocation of authority between client and attorney.

(c) Appointment and withdrawal of counsel.

- (1) If suitable counsel has been identified, the court shall enter an order making the appointment. The order shall identify the scope of the representation by timeframe or subject matter.
- (2) The appointing judge may, at his or her discretion, elect to hold a representation hearing.
- (3) The order shall be served on the litigant with directions regarding how the litigant can reject the appointed counsel.
 - [A] A litigant's rejection of appointed counsel does not give rise to a right to appointment of new counsel.
 - [B] When evaluating additional requests for counsel in the same action, the court may consider a litigant's prior rejection of counsel together with the other factors listed in section (a)(1) of this guideline.
 - [C] If the litigant agrees with the appointment, appointed counsel shall enter an appearance on a form provided by the court promptly thereafter or at the representation hearing, if one is set.
 - [D] If at any point the appointed attorney reaches an all-purpose fee agreement with the litigant, the attorney must promptly notify the Court that the

representation is no longer governed by Local Rule 83.4 by filing (1) a notice of withdrawal under Local Rule 83.4 and (2) a standard entry of appearance.

[E] An attorney appointed under Local Rule 83.4 may seek reimbursement of actual costs incurred in the representation. The reimbursement shall not exceed \$1,000 per case, unless otherwise ordered by the Court in exceptional circumstances.

[F] An attorney appointed under Local Rule 83.4 shall receive a PACER fee waiver applicable to all fees incurred in accessing the case electronically.

(4) Upon conclusion of a limited-scope representation, the appointed attorney must withdraw by filing a notice with the court, served on all parties of record, stating that the attorney's limited representation has concluded; certifying that the attorney has taken all actions necessitated by the representation; filing a current service address and telephone number for the client; and certifying that the client has been provided a list of all trial court discovery deadlines, appellate deadlines, motion deadlines and hearing dates and times. Upon the filing of such notice, the withdrawal shall be effective without further court action or approval.