

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

In the matter of

THE ADOPTION OF LOCAL CIVIL RULE
83.4 FOR THE DISTRICT OF ALASKA

**MISCELLANEOUS
GENERAL ORDER
NO. 17-03**

IT IS HEREBY ORDERED that the following Local (Civil) Rule 83.4 and the accompanying Administrative Guidelines are adopted for the District of Alaska, effective **July 6, 2017**:

Local Rule 83.4 Limited Appearance by Volunteer *Pro Bono* Attorney in Civil Cases.

- (a) A presiding judge may request a volunteer *pro bono* attorney to represent a self-represented litigant unable to afford counsel in a civil case pursuant to 28 U.S.C. §1915(e)(1).
- (b) A volunteer *pro bono* attorney's representation may be all-purpose or limited in scope. A Limited Entry of Appearance may be made for a discrete purpose such as amendment of a pleading, participating at a settlement conference, filing or opposing a dispositive motion, attending a hearing(s), attending a deposition(s), conducting or responding to discovery, or attending trial. Alternatively it may be made for a specified period of time. A Limited Entry of Appearance shall specify each purpose of the appearance.
- (c) Upon conclusion of a Limited Entry of Appearance, the volunteer attorney may withdraw by filing and serving a Notice of Withdrawal.

Administrative Guidelines for Implementing Local Rule 83.4 (Limited Appearance by Volunteer *Pro Bono* Attorney in Civil Cases).

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

- (1) The presiding judge in a civil case may request a volunteer *pro bono* attorney for a self-represented litigant upon consideration of:
 - [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] The likelihood of success on the merits; and
 - [D] The ability of the litigant to articulate claims *pro se* in light of the complexity of the legal issues involved.¹
- (2) The Court may make a request for a volunteer attorney on its own initiative or on motion by a party.
- (3) The request for a volunteer attorney may be for a general or limited entry of appearance.

(b) Identification and selection of volunteer *pro bono* attorneys.

- (1) A presiding judge's request for a volunteer *pro bono* attorney does not give rise to a right to counsel. It is dependent on the availability of a willing and qualified attorney.
- (2) When a volunteer *pro bono* attorney has been requested, the Court's Pro Se Staff Attorney will place a generic description of the case on the Court's website and forward the request to the Alaska Chapter of the Federal Bar Association, the American Civil Liberties Union of Alaska, and the Alaska Bar Association. This generic description and the request for a volunteer *pro bono* attorney shall also be entered in the case's public docket.
- (3) A database of volunteer *pro bono* attorneys shall be maintained by the Court's Pro Se Staff Attorney. The presiding judge in a case will have no role in the selection of a *pro bono* attorney for that case.

¹ *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986).

- (4) Attorneys appearing *pro bono* under Local Rule 83.4 shall certify compliance with Alaska Rule of Professional Conduct 1.4(c) regarding malpractice insurance disclosure.
- (5) A Limited Entry of Appearance authorized by Local Rule 83.4 shall comply with Alaska Rule of Professional Conduct 1.2 regarding the scope of representation.

(c) Appointment and withdrawal of counsel.

- (1) If a suitable volunteer *pro bono* attorney has been identified, the Court will enter an appointment order that identifies the scope of the representation by time frame or subject matter.
- (2) A volunteer attorney may request a representation hearing.
- (3) The appointment order shall inform the litigant of each of the following:
 - [A] The litigant may reject the volunteer attorney;
 - [B] The litigant's rejection of the volunteer attorney does not give rise to a right to the appointment of a different volunteer attorney;
 - [C] When evaluating additional requests for an attorney in the same action, the Court may consider a litigant's prior rejection of an attorney together with the other factors listed in section (a)(1) of these guidelines;
 - [D] If the litigant does not reject the appointment, the appointed attorney shall enter an appearance promptly thereafter or at the representation hearing, if one is set;
 - [E] An appointed attorney may file a general Entry of Appearance at any time;
 - [F] A *pro bono* attorney who appears pursuant to Local Rule 83.4 may seek reimbursement from the Court 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; and
 - [G] A *pro bono* attorney pursuant to 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, an appointed attorney must file and serve a Notice of Withdrawal that includes the following:
 - [A] The attorney's limited representation has concluded;
 - [B] A certification that the attorney has taken all actions necessitated by the representation;

- [C] A current service address and telephone number for the party; and
- [D] A certification 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 of Withdrawal, the withdrawal shall be effective without further court action or approval, without consent of the client, without substitution of counsel, or a showing of good cause.

The Clerk of the Court is directed to forward a certified copy of this Order to the Judicial Council and the Director of the Administrative Office of the United States Courts as required by 28 U.S.C. § 2071(d).

DATED this 6th day of July, 2017 at Anchorage, Alaska.

s/ Timothy M. Burgess
TIMOTHY M. BURGESS, Chief Judge
United States District Court

s/ Sharon L. Gleason
SHARON L. GLEASON, Judge
United States District Court

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