

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS**



**AMENDMENTS TO THE
LOCAL RULES
Effective March 1, 2016**

RULE 83.1 ADMISSION OF ATTORNEYS

(a) General Admission of Attorneys

Any attorney licensed to practice law in any state in the United States or the District of Columbia shall be admitted to practice generally in this Court upon payment of an initial fee as prescribed in the Fee Schedule, and:

- (1) a written motion of a member in good standing of the bar of this Court including the bar number of the member and all state bar numbers issued to the applicant; or
- (2) the attorney's own motion accompanied by a Certificate of Good Standing from a state in which the attorney is licensed together with all state bar numbers issued to the applicant; or
- (3) the attorney's own motion accompanied by a copy of the attorney's Certificate of Admission to Practice in the Northern or Central Districts of Illinois together with all state bar numbers issued to the applicant.

Attorneys must periodically pay a fee to maintain their membership in the Court's bar. The amount and interval of the maintenance fee shall be set by the Court and published in the Fee Schedule.

(b) *Pro Hac Vice* Admissions

Except as otherwise provided in the Local Rules, any attorney licensed to practice law in any state in the United States or the District of Columbia who does not wish to be admitted generally but wishes to be admitted for the purposes of a specific civil or criminal case only may, upon submission of a Motion to Appear *Pro Hac Vice* which contains a verified statement setting forth the state and federal bars of which the movant is a member in good standing, the bar number, if any, issued by each jurisdiction, and the required filing fee prescribed in the Fee Schedule for *pro hac vice* motions, be permitted to appear of record and participate *pro hac vice*.

(c) Government Representation

Any attorney representing any governmental entity, whether federal, state, or municipal, may appear and participate in particular cases in his or her official capacity without the necessity of a motion for admission. The requirements of subparagraph (d) below, concerning non-resident counsel, shall apply.

(d) Non-Resident Counsel

It shall not be necessary for parties appearing by non-resident counsel to retain local counsel to represent them. At any time for good cause, upon the motion of any party, or upon its own motion, the Court may require that a non-resident attorney obtain local counsel to assist in the conduct of the case.

(e) Representation in Cases

In all cases filed in, removed to, or transferred to this Court, all parties, except governmental agencies or those appearing *pro se*, must be represented by a member of the bar of this Court. Service upon such attorney shall constitute service upon all other counsel appearing of record for the party.

Unless otherwise excepted by this rule, pleadings or other documents submitted by a party who is not represented by a member of the bar of this Court shall be returned by the Court.

(f) Appearances

In all cases filed in, removed to, or transferred to this Court, all attorneys, including government attorneys, shall file a written entry of appearance before addressing the Court.

(g) Withdrawals

An attorney may not withdraw an entry of appearance for a party without leave of Court and notice to all parties of record.

(1) Notice to Court

The motion for leave to withdraw shall be in writing and, unless another attorney is substituted, shall state the last known address of the party represented. The Court may deny the motion if granting it would delay the trial of the case or would otherwise be inequitable.

(2) Notice to Parties

Unless another attorney is substituted, a withdrawing attorney must give reasonable notice of the time and place of the presentation of the motion for leave to withdraw to the party being represented at the party's last known business or residential address, by personal service or certified mail. The notice shall advise the party being represented that he or she should retain other counsel and that within **21 days** of the entry of the order of withdrawal, the party or the new counsel shall file with the Clerk of Court a supplementary appearance that provides an address at which the party and/or the new counsel may receive service of documents related to the case.

If the motion for withdrawal is granted, the withdrawing attorney shall serve a copy of the order of withdrawal within **7 days** upon all counsel of record and upon unrepresented parties. Additional procedures apply to attorneys assigned to represent *pro se* litigants.

(h) Conduct

Conduct of attorneys admitted to practice in this Court is controlled by Local Rule 83.2.

(i) Duty of Attorneys to Accept Assignments

Every member of the bar of this Court, as defined in subparagraph (a) of this rule, shall be available for assignment by the Court to represent or assist in the representation of those who cannot afford to hire an attorney. Assignments shall be made in such a manner that no member of the bar of this Court shall be required to accept more than one assignment during any twelve-month period. Local Rules 83.8-83.14 set forth the District's *Pro Bono* Program and applicable procedures.

(j) Representation by Supervised Senior Law Students

A student in a law school who has been certified to render services pursuant to Illinois Supreme Court Rule 711 may, upon approval of the judge before whom the case is pending, perform such services in this Court as allowed by Rule 711 while under the supervision of an attorney authorized to practice in this Court. In addition to the agencies specified in paragraph (b) of Rule 711, the law school student may render services with the United States Attorney for this district, the legal staff of any agency of the United States government, or the Federal Public Defender for this district including any of its staff or panel attorneys.

(k) Registration Fee

When a fee is collected from an attorney for general admission to practice in this Court, the amount prescribed by the Judicial Conference of the United States for general admission shall be paid to the Treasury of the United States. Any amount collected above that basic admission fee shall be retained by the Clerk of Court for use as set forth in this Court's *Plan for the Administration of the District Court Fund*. The entire fee collected from a *pro hac vice* admission, and any fee prescribed and collected for the periodic renewal of membership to this Court's bar, shall be retained by the Clerk of Court for use as set forth in this Court's *Plan for the Administration of the District Court Fund*.

RULE 83.8 *PRO BONO* PROGRAM

(a) Definitions.

The following definitions shall apply to the *pro bono* rules:

- (1) The term “assignment of counsel” shall mean the assignment of a member of the bar of this Court to represent a party who lacks the resources to retain counsel by any other means. Such assignment shall only be in a civil action or appeal to the district court from an administrative decision and shall not include any assignment made pursuant to the Criminal Justice Act of 1964, 18 U.S.C. § 3006A.
- (2) The term “judge” shall mean the judge to whom the action is assigned, including a magistrate judge acting in a civil case pursuant to 28 U.S.C. §§ 636(b) or (c).
- (3) The term “panel” shall mean those members of the bar of this Court who have volunteered for assignment and those whose names were selected pursuant to section (b). Members of the district’s *pro bono* panel at the time of the implementation of this rule shall automatically be included in the inaugural panel. Thereafter, their continued participation in the *pro bono* program shall be in accordance with Local Rules 83.1 and 83.8-83.14.
- (4) The terms “*pro bono* rules” and “*pro bono* program” shall refer to Local Rules 83.1(i) and 83.8-83.14.

(b) Creating the Panel.

Annually, the Clerk of Court shall select names at random from the bar of this Court to create a panel. Following the selection of a panel, the Clerk of Court shall notify each member.

Except as otherwise provided by the *pro bono* rules, the Clerk of Court shall select members from the bar of this Court who have not been included in a panel within the last year. By notifying the Clerk of Court, a member of the bar of this Court may volunteer to be included in a panel and assigned to a case at the earliest opportunity. If assigned to represent a *pro se* litigant, an attorney will not be included on the next two panels unless the attorney volunteers for continued assignments.

(c) Exemptions.

A member of the panel who, when selected for assignment to represent a *pro se* litigant:

- (1) is employed full-time as an attorney by an agency of the United States, a state, a county, or any sub-division thereof, or
- (2) is employed full-time as an attorney by a not-for-profit legal aid organization,

shall be exempt from assignment. Every effort will be made to not make an assignment to an exempt attorney, but if an assignment is made, the attorney should move for relief from assignment.

(d) Fulfillment of Panel Duty.

At the conclusion of each panel's term, members will be notified. They may volunteer for inclusion in the next panel for assignment at the earliest opportunity.

RULE 83.9 ASSIGNMENT PROCEDURES

(a) Application.

Any application for the assignment of counsel by a party appearing *pro se* shall be on a form approved by the Court. The application shall include a form of affidavit stating the party's efforts, if any, to obtain counsel by means other than assignment and indicating any prior *pro bono* assignments of counsel to represent the party in cases brought in this Court, including both pending and previously terminated actions. A completed copy of the affidavit of financial status in the form required by Local Rule 3.1(b) shall accompany the application. A *pro se* party who was ineligible for assigned counsel at the outset of the litigation who later becomes eligible by reason of changed circumstances may apply for assignment of counsel within a reasonable time after the change in circumstances has occurred. The Court may also *sua sponte* reconsider assigning counsel.

(b) Notice of Assignment.

Counsel shall be assigned by order of the Court, which shall be immediately sent to all parties to the action and the assigned attorney. The order shall include the name, address and, if available, telephone number of the party to be represented. Information regarding how to contact a prisoner-party is available on the Court's website.

(c) *Pro Se* Motions.

Upon assignment of counsel, all pending motions filed by the party *pro se* shall be denied without prejudice so that assigned counsel can evaluate how to proceed, unless otherwise ordered by the Court.

RULE 83.10 DUTIES & RESPONSIBILITIES OF ASSIGNED COUNSEL

Upon receiving notice of the assignment, counsel shall, within 14 days or as directed by the Court, file an appearance in the case, in accordance with Local Rule 83.1(f). Promptly following the filing of an appearance, assigned counsel shall communicate with the newly-represented party concerning the action or appeal, alerting the party if an associate will also be working on the case. In addition to a full discussion of the merits of the dispute, counsel shall explore with the party any possibilities of resolving the dispute in other forums, including but not limited to administrative forums. If after consultation with counsel the party decides to prosecute or defend the action or appeal, counsel shall proceed to represent the party in the action or appeal unless or until the attorney-client relationship is terminated as provided by these rules.

Except where the assignment is terminated pursuant to Local Rule 83.11 or Local Rule 83.12, each assigned counsel shall represent the party in the action from the date counsel enters an appearance until final judgment or the action is otherwise concluded in the district court. The assigned counsel is not required by these rules to continue to represent a party on appeal should the party represented wish to appeal from a final judgment, but must advise the party of the applicable deadlines for filing a notice of appeal or motion under Federal Rules of Civil Procedure 59 or 60.

RULE 83.11 RELIEF FROM ASSIGNMENT

(a) Grounds & Application.

After assignment, counsel may apply to be relieved of an order of assignment only on the following grounds or on such other grounds as the assigning judge finds adequate for good cause shown:

- (1) A conflict of interest precludes counsel from accepting the responsibilities of representing the party in the action.
- (2) Because of another extraordinary professional commitment, counsel lacks the time necessary to represent the party.
- (3) The party is proceeding for purpose of harassment or malicious injury, or the party's claims or defenses are not warranted under existing law and cannot be supported by good faith argument for extension, modification, or reversal of existing law.

Any application by counsel for relief from an order of assignment on any of the grounds set forth in this section shall be made to the judge promptly after the attorney becomes aware of the existence of such grounds, or within such additional period as may be permitted by the judge for good cause shown.

Any application under subparagraph (3) shall be accompanied by a brief referring to anything in the record that might arguably support the represented party's position. A copy of counsel's brief should be furnished to the represented party, and time shall be allowed for the represented party to raise any points that he or she chooses. The Court will then decide whether relief from assignment is warranted, whether another attorney should be assigned, and whether any further action is required before any merits-based decision is rendered.

(b) Order Granting Relief.

If an application for relief from an order of assignment is granted, the judge may issue an order directing the assignment of another attorney to represent the party. Such assignment shall be made in accordance with the procedures set forth in Local Rule 83.9(b). Alternatively, the judge shall have the discretion not to issue a further order of assignment, in which case the party shall be permitted to prosecute or defend the action *pro se*.

Where the judge enters an order granting relief from an order of assignment on the grounds that counsel lacks the time to represent the party due to the extraordinary burden of other professional commitments, the name of counsel so relieved shall, except as otherwise provided in the order, automatically be included among the names selected for the next panel.

(c) Refusal of Assignment.

An attorney who is not relieved of an assignment but still refuses to represent the party shall, on order of the Court, be stricken from the roll of the bar of this Court for two years, during which time the attorney will not be permitted to appear *pro hac vice*. An attorney so removed from the roll must reapply for admission to the bar of the Court, pay the general admission fee, and will only be admitted upon the approval of all district judges. An attorney securing readmission will be added to the current *pro bono* panel and assigned to a case at the earliest opportunity.

RULE 83.12 DISCHARGE OF ASSIGNED COUNSEL ON REQUEST OF PARTY

Any party for whom counsel has been assigned shall be permitted to request the judge discharge that counsel from the assignment and assign another. Such a request shall be made promptly after the party becomes aware of the reasons giving rise to the request, or within such additional period as may be permitted by the judge for good cause shown.

When a request for discharge is supported by good cause, the judge shall immediately issue an order discharging and relieving assigned counsel from further representation of the party in the action or appeal. Following the entry of such an order of discharge, the judge may, in the judge's discretion, either enter or not enter a further order directing the assignment of another counsel to represent the party. In any action where the judge discharges assigned counsel but does not issue a further order of assignment, the party shall be permitted to proceed *pro se*.

In any action where a second counsel is assigned and subsequently discharged upon request of a party, no additional assignment shall be made except on a strong showing of good cause. Any assignments made following the entry of an order of discharge shall be made in accordance with the procedures set forth in Local Rule 83.9(b).

RULE 83.13 EXPENSES

The party assigned counsel shall bear the cost of any expenses of the litigation or appeal to the extent reasonably feasible in light of the party's financial condition. Such expenses shall include, but not be limited to discovery expenses, subpoena and witness fees, and transcript expenses. It shall be permissible for assigned counsel, or the firm with which counsel is affiliated, to advance part or all of the payment of any such expenses without requiring that the party remain ultimately liable for such expenses, except out of the proceeds of any recovery. However, the assigned attorney or firm shall not be required to advance the payment of such expenses. If the initial partial filing fee payment is advanced by assigned counsel, that amount is not reimbursable.

Expenses incurred by counsel assigned under the *pro bono* program or the firm with which counsel is affiliated, not otherwise recoverable, may be reimbursed from the District Court Fund in accordance with Section 2.6 of the *Plan for the Administration of the District Court Fund* (available on the Court's website), as funds are available. Motions for reimbursement out of the District Court Fund shall be made within 30 days from entry of judgment, or reimbursement is waived.

RULE 83.14 ATTORNEY'S FEES

(a) Party's Ability to Pay.

Where as part of the process of assigning counsel the judge finds the party is able to pay for legal services in whole or in part but assignment is justified, the judge shall include in the order of assignment provisions for any fee arrangement between the party and the assigned counsel.

If assigned counsel discovers after assignment that the party is able to pay for legal services in whole or in part, counsel shall bring that information to the attention of the judge.

(b) Fee Agreements.

If assigned counsel wishes to negotiate a fee arrangement with the client, counsel must do so at the outset of the representation. Any such fee arrangement is subject to all applicable rules and canons of professional conduct.

(c) Allowance of Fees.

Upon appropriate application by assigned counsel, the judge may award attorney's fees to assigned counsel for services rendered in the action as authorized by applicable statute, regulation, rule, or other provision of law.