

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
GENERAL ORDER 11 - 0017**

The full Court met in executive session on Thursday, May 19, 2011 and approved an amendment to Local Rule 83.36 regarding Appointment Procedures. The proposed amendment was published with comments due on March 28, 2011. No comments were received from the Public.

The Court's Rules Advisory Committee reviewed the rule at its meeting on May 3, 2011 and approved the amendment as published.

The Court's Rules Committee discussed the rule at its meeting on May 12, 2011. It recommended that the full Court adopt the proposal as published.

The full Court considered the recommendation of the Rules Committee at its meeting on May 19, 2011 and agreed to modify Local Rule 83.36. Therefore,

By direction of the full Court, which met in executive session on Thursday, May 19, 2011,

IT IS HEREBY ORDERED that Local Rule 83.36 Appointment Procedures be amended as follows (additions shown thus, deletions shown ~~thus~~):

LR83.36. Appointment Procedures

(a) APPLICATION. Any application for the appointment of counsel by a party appearing *pro se* shall be on a form approved by the Executive Committee. The application shall include a form of affidavit stating the party's efforts, if any, to obtain counsel by means other than appointment and indicating any prior *pro bono* appointments 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 LR3.3(a)(2) shall be attached to the application. ~~The clerk shall provide the application forms and financial status affidavits on request together with a cover sheet informing the party of the following:~~

- ~~_____ (1) the steps needed to complete and file the application;~~
- ~~_____ (2) the party's responsibility under LR83.40 to pay expenses to the extent reasonably feasible based on the party's financial condition;~~
- ~~_____ (3) the party's responsibility under LR83.41 to pay part or all of counsel's fees~~

to the extent reasonably feasible based on the party's financial condition;

~~(4) the provisions of 42 U.S.C. §2000e-5(k) for the award of attorney's fees to prevailing parties in Title VII employment discrimination actions; and~~

~~(5) the provisions for awarding statutory attorney's fees from any award of retroactive disability benefits in Social Security appeals.~~

~~Failure of a party to make a written application for appointed counsel shall not preclude appointment.~~

~~(b) RE-APPLICATION. A *pro se* party who was ineligible for appointed counsel at the outset of the litigation who later becomes eligible by reason of changed circumstances may apply for appointment of counsel within a reasonable time after the change in circumstances has occurred. The procedures set out in section (a) shall be followed in making such re-application.~~

~~(c) FACTORS USED IN DETERMINING WHETHER TO APPOINT. Upon receipt of an application for the appointment of counsel, the judge shall determine whether counsel is to be appointed to represent the *pro se* party pursuant to 28 U.S.C. §1915(c). That determination shall be made within a reasonable time after the application is filed. The following factors will be taken into account in making the determination:~~

~~(1) the potential merit of the claims as set forth in the pleadings;~~

~~(2) the nature and complexity of the action, both factual and legal, including the need for factual investigation;~~

~~(3) the presence of conflicting testimony calling for a lawyer's presentation of evidence and cross-examination;~~

~~(4) the capability of the *pro se* party to present the case;~~

~~(5) the inability of the *pro se* party to retain counsel by other means;~~

~~(6) the degree to which the interests of justice will be served by appointment of counsel, including the benefit the court may derive from the assistance of appointed counsel; and~~

~~(7) any other factors deemed appropriate by the judge.~~

~~(d) ORDER OF APPOINTMENT. Whenever the judge concludes that the appointment of counsel is warranted, the judge shall enter an order pursuant to 28 U.S.C. §1915(d) directing the appointment of counsel to represent the *pro se* party. The judge may specify in the order of appointment an area of expertise or preference so that the clerk may select a prospective appointee who indicated such area, if one is available. The order shall be transmitted forthwith to the clerk. If service of the summons and complaint has not yet been made, an order directing service by the United States marshal or by other appropriate method of service shall accompany the appointment order.~~

~~The selection of a member of the panel for appointment pursuant to the appointment order will normally be made in accordance with section (e). However, the judge may determine that an appointment be made in any of the following manners:~~

~~(1) Where the *pro se* party has one or more other cases pending before this Court in which counsel has been appointed, the judge may determine it to be appropriate that counsel appointed in such other case or cases be appointed to represent the *pro se* party in the case before the judge.~~

~~(2) Where the judge finds that the nature of the case requires specific expertise and among the panel members available for appointment there are some with the required expertise, the judge may direct the clerk to select counsel from among those included in the group or may designate a specific member of the group.~~

~~(3) Where the judge finds that the nature of the case requires specific expertise and none of the panel members available for appointment has indicated that expertise, the judge may appoint counsel with the required expertise who is not on the panel.~~

~~In order to assist the judge in determining whether or not to make a direct appointment under (1) of this section, the clerk shall provide on request the case number, case title, judge to whom assigned, and name of counsel appointed of each case currently pending before the Court in which the *pro se* party has had counsel appointed:~~

~~(c) SELECTION OF ATTORNEY TO BE APPOINTED. Except where another method of appointment is ordered pursuant to section (d), the clerk, on receipt of the order of appointment, shall select a name from the panel in the following manner:~~

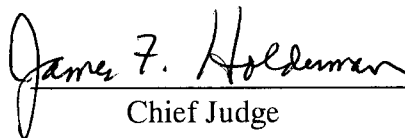
~~(1) Where the order specifies a particular area of expertise or a preference, the clerk shall select the first available panel member indicating such expertise or preference. If no such person is found, the next available person listed on the panel shall be selected.~~

~~(2) Where the order does not specify any area of expertise or preference, the clerk shall select the first available person listed on the panel.~~

~~(b)f) NOTICE OF APPOINTMENT. After counsel has been selected, the clerk shall forthwith send to counsel written notice of the appointment. A copy of the order of appointment and copies of the pleadings filed to date, relevant correspondence, and any other relevant documents shall accompany the notice. In addition to notifying counsel, the clerk shall also notify all of the parties to the action of the appointment and include with such notification the name, address, and telephone number of the appointee.~~

~~(c)g) MAKING PRIVATE COUNSEL COURT-APPOINTED. Where a party is represented by counsel and because of the party's financial condition both the party and counsel wish to change the nature of the representation to court-appointed representation in order that counsel may be eligible for reimbursement of expenses from the District Court Fund pursuant to LR83.40, counsel may petition the court to be court-appointed counsel. Any such petition shall indicate that if the court grants the petition, any existing fee agreements between the party and counsel shall no longer be enforceable and any subsequent fee agreements between the party and counsel may only be made in accordance with the provisions of LR83.41. In ruling on the petition, the judge shall grant it only if the judge would have granted an application filed under this rule had the party not been represented by counsel. Where the party is represented by more than one counsel, any order of appointment under this section shall preclude prospective operation of fee agreements with all such counsel but shall appoint only those counsel wishing to be appointed.~~

ENTER:
FOR THE COURT



Chief Judge

Dated at Chicago, Illinois this 31st day of May, 2011