

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
GENERAL ORDER 13 - 0010**

The full Court met in executive session on Thursday, May 23, 2013 and approved technical amendments to the following Local Rules. These are technical amendments and do not require publication for comment.

- 83.11 Trial Bar
- 83.28 Discipline of Attorneys for Misconduct
- 83.29 Appointment of Counsel
- 83.35 Pro Bono Program
- 83.36 Appointment Procedures
- 83.37 Duties & Responsibilities of Appointed Counsel
- 83.38 Relief from Appointment
- 83.39 Discharge of Appointed Counsel on Request of Party

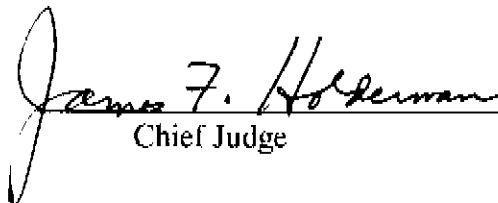
The Court's Rules Committee discussed the rules at its meeting on May 16, 2013. It recommended that the full Court adopt the proposed technical amendments as attached.

The full Court considered the recommendation of the Rules Committee at its meeting on May 23, 2013 and agreed to modify the attached local rules. Therefore,

By direction of the full Court, which met in executive session on Thursday, May 23, 2013,

IT IS HEREBY ORDERED that Local Rules 83.11, 83.28, 83.29, 83.35, 83.36, 83.37, 83.38, and 83.39 be amended as attached (additions shown thus, deletions shown ~~thus~~):

ENTER:
FOR THE COURT



Chief Judge

Dated at Chicago, Illinois this 24th day of May, 2013

LR83.11. Trial Bar

(a) Definitions. The following definitions shall apply to this rule:

(1) The term "testimonial proceedings" refers to proceedings that meet all of the following criteria:

- (A) they are evidentiary proceedings in which all testimony is given under oath and a record is made of the testimony;
- (B) the witness or witnesses are subject to cross-examination;
- (C) a presiding officer is present;
- (D) the parties to such proceedings are generally represented by attorneys; and
- (E) where a proceeding was held before an administrative agency, the findings and determinations of the agency are based upon the proceeding and are reviewable for sufficiency of evidence by a court of record.

Procedures limited to taking the deposition of a witness do not constitute testimonial proceedings for the purposes of this rule.

(2) The term "qualifying trial" refers to an evidentiary proceeding that meets the following criteria:

- (A) it lasts at least one day;
 - (B) it must be a trial or hearing involving substantial testimonial proceedings going to the merits; and
 - (C) it must be held in open court before one of the following: a judge or magistrate judge of a United States district court; a judge of a United States bankruptcy court; a judge of the United States Tax Court; a judge of a trial court of record of a state, the District of Columbia, or a territory of the United States; or any administrative law judge.
- (3) The term "participation units" shall mean a qualifying trial in which the petitioner participated as the lead counsel or the assistant to the lead counsel.
- (4) The term "observation unit" shall mean a qualifying trial the petitioner observed while being supervised by a supervising attorney who consulted with the observer about the trial. At the time of the observation the supervising attorney must either have been a member of the trial bar of this Court or have had previous trial experience equivalent to at least 4 participation units.
- (5) The term "simulation unit" shall mean a trial advocacy program in which the focus is experiential, as contrasted to lecture in which the petitioner satisfactorily participated either as a law school or a continuing legal education course.
- (6) The term "training unit of the District Court" shall mean participation in a training seminar officially sanctioned by the Court.
- (7) The term "qualifying unit of trial experience" shall include any of the following: participation units, observation units, simulation units, and training units. A petitioner shall be credited the following qualifying units of trial experience for the experience indicated:
- (A) for each participation unit, 2 units where the trial lasted 9 days or less, 3 units where the trial lasted from 10 to 12 full days, and 4 units where the trial lasted 13 or more full days;
 - (B) for each observation unit, 1 unit;
 - (C) for each simulation unit, 2 units; and
 - (D) for each training unit of the District Court, 1 unit.

(8) The term "required trial experience" shall mean not less than 4 qualifying units of trial experience.

(9) The term "*pro bono* panel" shall refer to a panel of members of the trial bar selected pursuant to LR83.35(b) for the purpose of representing or assisting in the representation of parties unable to afford to hire a member of the trial bar.

(NOTE: See Regulations promulgated by the District Admissions Committee for additional material relating to admissions. The Regulations are located in the Appendix to the local Rules.)

(b) Qualifications. An applicant for admission to the trial bar of this Court must be a member in good standing of the general bar of this Court and provide evidence of having the required trial experience. Anyone wishing to apply for admission to the trial bar who is not a member of the bar of this Court may apply for admission to both bars simultaneously.

(c) Petition Form. The Executive Committee will approve a form of petition to be used by anyone applying for admission to the trial bar. Copies of the approved form will be provided on request by the clerk.

(d) Screening the Petition. The clerk, under the supervision of the Executive Committee, will screen each petition to assure that it is filed on the correct form, has been completed, and contains sufficient information to establish that the petitioner meets the qualifications required for the trial bar. Where these requirements are met, an indication to that effect will be placed on the petition and the petitioner will be notified that the petition is approved. Where the requirements are not met, the petition will be returned to the applicant with appropriate instructions.

(e) Admission Fee. Each petitioner shall pay an admission fee upon the filing of the petition, provided that in the event the petitioner is not admitted, the petitioner may request that the fee be refunded. The amount of the fee shall be established by the court.

The clerk shall deposit the fee in the District Court Fund.

(f) Duty to Supervise. Every member of the trial bar shall be available for ~~appointment to be assigned~~ by the court to supervise attorneys who are in the process of obtaining observation units needed to qualify for membership in the trial bar. Such ~~appointments~~ assignments shall be made in a manner so as to allocate the responsibility imposed by this rule equally among all members of the trial bar.

(g) Duty to Accept ~~Appointments~~ Assignments. Each member of the trial bar shall be available for ~~appointment~~ assignment by the court to represent or assist in the representation of those who cannot afford to hire a member of the trial bar. ~~Appointments~~ Assignments under this rule shall be made in a manner such that no member of the trial bar shall be required to accept more than one ~~appointment~~ assignment during any 12 month period.

(h) Withdrawal from Trial Bar. A member of the trial bar may, on motion for good cause shown, voluntarily withdraw from said bar. Such motion shall be filed with the clerk for presentation to the Executive Committee. Where the motion to withdraw is made by a member of the current *pro bono* panel the name of the attorney will be removed from the *pro bono* panel if the motion is granted.

(i) Reinstatement. Any attorney permitted to withdraw as a member of the trial bar pursuant to section (h) who wishes to be reinstated must file a petition for reinstatement with the clerk for presentation to the Executive Committee. Where the attorney was a member of a *pro bono* panel at the time the petition to withdraw was filed, the petition for reinstatement shall include a statement indicating the attorney's present willingness and ability to accept an ~~appointment~~ assignment under LR83.35 through LR83.49. If the committee grants the motion in such an instance, it shall direct that the attorney be included in the *pro bono* panel and remain there for one year or until the attorney is ~~appointed~~ assigned, whichever comes first.

LR83.28. Discipline of Attorneys for Misconduct

(a) Complaint of Misconduct. Any complaint of misconduct shall be filed with the chief judge. The complaint may be in the form of a letter. The chief judge shall refer it to the Executive Committee for consideration and appropriate action.

(b) Action by Executive Committee. On receipt of a complaint of misconduct the Committee may forward a copy to the attorney and ask for a response within a time set by the Committee. On the basis of the complaint of misconduct and any response, the Committee may:

- (1) determine that the complaint merits no further action, or
- (2) direct that formal disciplinary proceedings be commenced, or
- (3) take such other action as the Committee deems appropriate, including the ~~assignment~~ appointment of an attorney pursuant to LR83.29.

(c) Statement of Charges; Service. To initiate formal disciplinary proceedings based on allegations of misconduct, the Executive Committee shall issue a statement of charges. In addition to setting forth the charges, the statement of charges shall include an order requiring the attorney to show cause, within 14 days after service why the attorney should not be disciplined.

Upon the issuance the statement of charges, the clerk shall forthwith mail two copies to the last known address of the attorney. One copy shall be mailed by certified mail restricted to addressee only, return receipt requested. The other copy shall be mailed by first class mail. If the statement is returned as undeliverable, the clerk shall so notify the Executive Committee. The Executive Committee may direct that further attempts at service be made, either personal service by a private process server or by the United States marshal, or by publication. Personal service shall be accomplished in the manner provided by Fed.R.Civ.P. 5(b) for service other than by mail. Service by publication shall be accomplished by publishing a copy of the rule to show cause portion of the statement in accordance with the provisions of LR83.3. Except as otherwise directed by the Executive Committee, the division of the Court in which the notice is to be published will be as follows:

- (1) where the last known address of the attorney is located in the District, the division in which the address is located; or,
- (2) where no address is known or the last known address is outside of the District, the Eastern Division.

(d) Answer; Declaration. The attorney shall file with the answer to the statement of charges a declaration identifying all courts before which the attorney is admitted to practice. The form of the declaration shall be established by the Executive Committee.

(e) Assignment to Individual Judge. Following the filing of the answer to the statement of charges, if the Executive Committee determines that an evidentiary hearing is required, the proceeding shall be assigned by lot for a prompt hearing before a judge of this Court. The assigned judge shall not be one who was a member of the Executive Committee that determined that an evidentiary hearing was required. The decision of the assigned judge shall be final.

(f) Disbarment on Consent. Any attorney admitted to practice before this Court who is the subject of an

investigation into, or a pending proceeding involving, allegations of misconduct may consent to disbarment, but only by delivering a declaration stating that the attorney desires to consent to disbarment and that:

- (1) the attorney's consent is freely and voluntarily rendered;
- (2) the attorney is not being subjected to coercion or duress;
- (3) the attorney is fully aware of the implications of so consenting;
- (4) the attorney is aware that there is presently pending an investigation or proceeding involving allegations that there exist grounds for the attorney's discipline, the nature of which the attorney shall specifically set forth; and
- (5) the attorney acknowledges that the material facts so alleged are true.

Upon receipt of the required declaration, the Executive Committee shall enter an order disbarring the attorney. The order of disbarring the attorney on consent shall be a matter of public record. However, the declaration shall not be publicly disclosed or made available for use in any other proceeding except where the Executive Committee orders such release after finding it to be required in the interests of justice.

LR83.29. Assignment~~Appointment~~ of Counsel

(a) Assignment~~Appointment~~. The Executive Committee or the judge to whom the case is assigned may ~~assign~~appoint one or more attorneys to investigate allegations of misconduct, to prosecute disciplinary proceedings, or in conjunction with a reinstatement petition filed by a disciplined attorney. The United States attorney or an assistant United States attorney, the administrator of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois or a designee of the administrator, or a member of the bar of this Court may be ~~assigned~~appointed. Once ~~assigned~~appointed, an attorney may not resign unless permission to do so is given by the Executive Committee or the judge to whom the case is assigned.

(b) Subpoenas. An attorney ~~assigned~~appointed under section (a) may, with the approval of the Executive Committee or the ~~the presiding judge~~judge to whom the case is assigned, cause subpoenas to be issued during the proceedings. Any subpoenas issued pursuant to this rule shall be returnable before the Executive Committee or the ~~presiding~~assigned judge.

LR83.35.Pro Bono Program

(a) DEFINITIONS. The following definitions shall apply to the *pro bono* rules:

(1)The term “~~assignment~~~~appointment~~ of counsel” shall mean the ~~assignment~~ ~~appointment~~ of a member of the trial bar to represent a party who lacks the resources to retain counsel by any other means. Such ~~assignment~~~~appointment~~ shall only be in a civil action or appeal and shall not include any ~~assignment~~~~appointment~~ 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. It shall include a magistrate judge where the ~~assignment~~~~appointment~~ is made in a civil case assigned to a magistrate judge for all purposes pursuant to 28 U.S.C. §636(c) or referred for evidentiary hearings pursuant to 28 U.S.C. §636(b)(1)(B).

(3)The term “panel” shall mean those members of the trial bar who have volunteered for ~~assignment~~~~appointment~~ and those whose names were selected pursuant to section (b).

(4)The terms “*pro bono* rules” and “*pro bono* program” shall refer to LR83.35 through 83.49.

(b)CREATING THE PANEL.From time to time, the clerk shall select names at random from the trial bar to create a panel. Except as otherwise provided by the *pro bono* rules, the clerk shall select members from the trial bar who have not been included on an earlier panel.

(c)NOTIFICATION TO PANEL.Following the selection of a panel the clerk shall notify each member and obtain from each the following information:

(1)counsel’s prior civil trial experience, including a general indication of the number of trials and areas of trial experience;

(2)counsel’s ability to consult and advise in languages other than English;

Such information as is supplied by counsel may be amended at any time by letter.

(d) EXEMPTIONS. A member of the trial bar

(1)whose principal place of business is outside of this District, or

(2)who is employed full-time as an attorney for an agency of the United States, a state, a county, or any sub-division thereof, or

(3)who is employed full-time as an attorney by a not-for-profit legal aid organization shall, when selected for a panel, be removed from it and returned to the pool. However, such action shall not preclude counsel from being selected for a subsequent panel.

(e)VOLUNTEERS.A member of the trial bar may volunteer to be included in a panel. Whenever a volunteer is ~~assigned~~~~appointed~~, the clerk as part of the notification process will ask the volunteer to elect one of the following options:

(1)the volunteer’s name will be moved to the end of the list of names on the panel, or

(2)the volunteer's name will be removed from the panel and either replaced after a specified time period or at the request of the volunteer. The clerk will make a similar request of any volunteer whose name has been on a panel for 12 months and who has not been ~~assigned~~~~appointed~~ during that time.

Committee Comment:Pursuant to LR83.11(g) each member of the trial bar has the responsibility to serve as an ~~assigned~~~~appointed~~ attorney in *pro se* matters. The *pro se* rules provide for the reimbursement of expenses of counsel ~~assigned~~~~appointed~~ under those rules. The admission fees collected when counsel join the trial bar form a major source of the funds used to pay the expenses.

The procedures for ~~appointment~~ involve selecting from a current panel. The panel is formed annually. The names are selected in such a manner that no member of the trial bar is selected for a subsequent panel until all other members have been selected. The only exemption from being included on a panel is the limited one granted to members of the groups specified in section (d).

LR83.36. ~~Assignment~~Appointment Procedures

LR83.36. ~~Assignment~~Appointment Procedures

(a) Application. Any application for the ~~assignment~~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 ~~assignment~~appointment and indicating any prior *pro bono* ~~assignments~~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. A *pro se* party who was ineligible for ~~assigned~~appointed counsel at the outset of the litigation who later becomes eligible by reason of changed circumstances may apply for ~~assignment~~appointment of counsel within a reasonable time after the change in circumstances has occurred.

(b) Notice of ~~Assignment~~Appointment. After counsel has been selected, the clerk shall forthwith send to counsel written notice of the ~~assignment~~appointment. In addition to notifying counsel, the clerk shall also notify all of the parties to the action of the ~~assignment~~appointment and include with such notification the name, address, and telephone number of the ~~assignee~~appointee.

(c) Making Private Counsel Court- ~~Assigned~~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- ~~assigned~~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- ~~assigned~~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 ~~assignment~~appointment under this section shall preclude prospective operation of fee agreements with all such counsel but shall appoint only those counsel wishing to be ~~assigned~~appointed.

LR83.37. Duties & Responsibilities of ~~Assigned~~Appointed Counsel

Upon receiving notice of the ~~assignment~~appointment, counsel shall forthwith file an appearance in accordance with LR83.12 in the action to which counsel is ~~assigned~~appointed. Promptly following the filing of an appearance, counsel shall communicate with the newly-represented party concerning the action or appeal. 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~~appointment is terminated pursuant to LR83.38 or LR83.39, each ~~assigned~~appointed counsel shall represent the party in the action from the date counsel enters an appearance until a final judgment is entered in the action. If the matter is remanded to an administrative forum, the ~~assigned~~appointed counsel shall, unless given leave to withdraw by the judge, continue to represent the party in any proceeding, judicial or administrative, that may ensue upon an order of remand. The ~~assigned~~appointed 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.

Upon ~~assignment~~appointment for purposes of settlement assistance, the attorney will assist in preparing for the settlement conference, participate in the settlement conference on behalf of the pro se litigant, and draft a settlement agreement and corresponding motion to dismiss, if appropriate. Assistance under the Settlement Assistance Program will be limited only to the effort to settle the case and will not extend to any other part of the litigation process.

LR83.38. Relief from ~~Assignment~~Appointment

(a) Grounds; Application. After ~~assignment~~appointment counsel may apply to be relieved of an order of ~~assignment~~appointment only on the following grounds or on such other grounds as the ~~assigning~~appointing judge finds adequate for good cause shown:

- (1) Some conflict of interest precludes counsel from accepting the responsibilities of representing the party in the action.
- (2) In counsel's opinion, counsel is not competent to represent the party in the particular type of action assigned.
- (3) Some personal incompatibility or a substantial disagreement on litigation strategy exists between counsel and the party.
- (4) Because of the temporary burden of other professional commitments involved in the practice of law, counsel lacks the time necessary to represent the party.
- (5) In counsel's opinion 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 ~~assigned~~appointed counsel for relief from an order of ~~assignment~~appointment 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.

(b) Order Granting Relief. If an application for relief from an order of ~~assignment~~appointment is granted, the judge may issue an order directing the ~~assignment~~appointment of another counsel to represent the party. Such ~~assignment~~appointment shall be made in accordance with the procedures set forth in LR83.36. Alternatively, the judge shall have the discretion not to issue a further order of ~~assignment~~appointment, 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~~appointment on the grounds that counsel lacks the time to represent the party due to a temporary 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.

LR83.39. Discharge of ~~Assigned~~Appointed Counsel on Request of Party

Any party for whom counsel has been ~~assigned~~appointed shall be permitted to request the judge to discharge that counsel from the representation and to ~~assign~~appoint another. Such 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 such a request is supported by good cause, such as personal incompatibility or a substantial disagreement on litigation strategy between the party and ~~assigned~~appointed counsel, the judge shall forthwith issue an order discharging and relieving ~~assigned~~appointed 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 ~~appointment~~appointment of another counsel to represent the party. In any action where the judge discharges appointed counsel but does not issue a further order of ~~assignment~~appointment, the party shall be permitted to proceed *pro se*.

In any action where a second counsel is ~~assigned~~appointed and subsequently discharged upon request of a party, no additional ~~appointment~~appointment shall be made except on a strong showing of good cause. Any ~~assignments~~appointments made following the entry of an order of discharge shall be made in accordance with the procedures set forth in LR83.36.