

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

## PROPOSAL TO AMEND LOCAL RULES

On September 28, 2023, the full Court approved a proposal to amend the following Local Rules:

LR83.11. Trial Bar

LR83.35. Pro Bono Program

LR83.36. Assignment Procedures

LR83.38. Relief from Assignment

LR83.40. Expenses

as attached (additions shown thus, and deletions shown ~~thus~~):

\* \* \* \* \*

**COMMENT:** By direction of the full Court and pursuant to 28 U.S.C. §2071(e) regarding appropriate public notice and opportunity for comment, the Clerk is directed to: (a) cause notice of the proposal to amend the above referenced Local Rules to be published in the *Chicago Daily Law Bulletin*, (b) cause notice of the proposal and requests for comment to be posted on the web site for the United States District Court Northern District of Illinois, (c) cause notice of the proposal to be posted in the Courthouses at Chicago and Rockford, (d) indicate in such notice a final date for receipt of comments, which date shall be sixty days from the first date of publication in the *Law Bulletin*, (e) collect and distribute among the members of the Advisory Committee for Local Rules all comments received, and (f) following receipt of a copy of the report and recommendation of the Advisory Committee, distribute copies of the comments together with copies of the report and recommendation among the members of the Court for consideration at a regular meeting of the full Court.

ENTER:  
FOR THE COURT



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Hon Rebecca R. Pallmeyer, Chief Judge

Dated at Chicago, Illinois this 3rd day of October 2023.

### 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 judge or administrative law judge is present;
  - (D) the parties to such proceedings are represented by attorneys; and
  - (E) where a proceeding is held before an administrative agency, the findings and determinations of the agency are based upon the record 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 is a trial or hearing that involves substantial testimonial proceedings going to the merits; and
- (C) it is held in open court before one of the following: a district 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 that the petitioner observed while being supervised by a supervising attorney who consulted with the petitioner about the trial. At the time of the observation the supervising attorney must either be 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 a training seminar officially sanctioned by the Court (including, for example *Pavey* hearings on the administrative exhaustion defense to a prisoner case, or "EAR" hearings for early resolution of prisoner conditions-of-confinement claims).

(7) The term "qualifying unit of trial experience" shall include any of the following: participation units, observation units, simulation units, or training units. A petitioner

shall be credited for units of trial experience as follows:

- (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 one allowable 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 no more than 2 of which may be simulation units.

**(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, must be a certified e-filer, must provide evidence of having the required trial experience, and must be sponsored by one current member of the trial bar who has known the applicant for at least one year and can attest to his/her competence. An attorney seeking admission to the trial bar who is not a member of the bar of this Court may apply for admission to both bars simultaneously. Trial bar membership must be renewed every three years as set forth in section (i).

**(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, subject to refund, should the petitioner not be admitted. 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 Maintain Contact Information.** Every member of the trial bar must maintain current contact information (street address, telephone number, and e-mail address) with the Clerk, and must advise the Clerk within 30 days of any change.

**(g) Duty to Supervise.** Every member of the trial bar shall be available 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 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.

**(h) Duty to Accept Assignments.** Each member of the trial bar shall be available for assignment by the court to represent or assist in the representation of those who cannot afford counsel.

**(i) Renewal.** Membership in the trial bar must be renewed every three years. An applicant for renewal must complete a Trial Bar Membership Renewal Form. The renewal fee shall be one-half of the current fee for admission to the trial bar. An attorney who does not renew his/her membership within one month of the expiration of the three-year anniversary date of admission to the trial bar will be deemed to have withdrawn.

**(j) 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 [\(LR83.35\(b\)\)](#), the name of the attorney will be removed from the *pro bono* panel if the motion is granted.

**(k) Reinstatement.** Any attorney who has withdrawn from membership in the trial bar pursuant to section (j) but wishes to be reinstated must file a new petition for admission to the trial bar and pay the full current trial bar fee. Where the attorney was a member of a *pro bono* panel at the time the petition to withdraw was filed, the petition for trial bar admission shall include a statement indicating the attorney's present willingness and ability to accept an assignment under [LR83.35](#) through [LR83.41](#). 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 assigned, whichever comes first.

Amended November 2, 2010, May 27, 2015, June 29, 2015,  
December 23, 2016 and March 29, 2018

## 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;
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  - (C) a presiding judge or administrative law judge is present;
  - (D) the parties to such proceedings are represented by attorneys; and
  - (E) where a proceeding is held before an administrative agency, the findings and determinations of the agency are based upon the record 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 is a trial or hearing that involves substantial testimonial proceedings going to the merits; and
- (C) it is held in open court before one of the following: a district 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 that the petitioner observed while being supervised by a supervising attorney who consulted with the petitioner about the trial. At the time of the observation the supervising attorney must either be 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 a training seminar officially sanctioned by the Court (including, for example *Pavey* hearings on the administrative exhaustion defense to a prisoner case, or "EAR" hearings for early resolution of prisoner conditions-of-confinement claims).

(7) The term "qualifying unit of trial experience" shall include any of the following: participation units, observation units, simulation units, or training units. A petitioner

shall be credited for units of trial experience as follows:

- (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;
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**(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, must be a certified e-filer, must provide evidence of having the required trial experience, and must be sponsored by one current member of the trial bar who has known the applicant for at least one year and can attest to his/her competence. An attorney seeking admission to the trial bar who is not a member of the bar of this Court may apply for admission to both bars simultaneously. Trial bar membership must be renewed every three years as set forth in section (i).

**(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, subject to refund, should the petitioner not be admitted. 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 Maintain Contact Information.** Every member of the trial bar must maintain current contact information (street address, telephone number, and e-mail address) with the Clerk, and must ~~advise~~ [advise](#) the Clerk within 30 days of any change.

**(g) Duty to Supervise.** Every member of the trial bar shall be available 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 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.

**(h) Duty to Accept Assignments.** Each member of the trial bar shall be available for assignment by the court to represent or assist in the representation of those who cannot afford counsel.

(i) **Renewal.** Membership in the trial bar must be renewed every three years. An applicant for renewal must complete a Trial Bar Membership Renewal Form. The renewal fee shall be one-half of the current fee for admission to the trial bar. An attorney who does not renew his/her membership within one month of the expiration of the three-year anniversary date of admission to the trial bar will be deemed to have withdrawn.

(j) **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-assignment list~~ (LR83.35(b)), the name of the attorney will be removed from the *pro bono* ~~panel-assignment list~~ if the motion is granted.

(k) **Reinstatement.** Any attorney who has withdrawn from membership in the trial bar pursuant to section (j) but wishes to be reinstated must file a new petition for admission to the trial bar and pay the full current trial bar fee. Where the attorney was a member of a *pro bono* ~~panel-assignment list~~ at the time the petition to withdraw was filed, the petition for trial bar admission shall include a statement indicating the attorney's present willingness and ability to accept an assignment under LR83.35 through LR83.41. If the committee grants the motion in such an instance, it shall direct that the attorney be included ~~in-on~~ the *pro bono* ~~panel-assignment list~~ and remain there for one year or until the attorney is assigned, whichever comes first.

Amended November 2, 2010, May 27, 2015, June 29, 2015,  
December 23, 2016~~-and~~, March 29, 2018, and XXX

## LR83.35. 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 trial bar to represent a party who lacks the resources to retain counsel. Such assignment shall only be in a civil action or appeal 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. It shall include a magistrate judge where the assignment 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 terms “*pro bono* rules” and “*pro bono* program” shall refer to [LR83.35](#) through [83.41](#).

(b) **CREATING THE Pro Bono PANEL.**

(i) At the start of each calendar year, the Clerk will create a pool consisting of the entire membership of the trial bar, including any new members, but excluding any members who have previously accepted an assignment. Names in the pool will be listed in random order.

(ii) At the start of each calendar quarter, the Clerk will create a pro bono panel by selecting, in random order, the names of a number of trial bar members equal to the estimated number of pro bono assignments to be made in the following quarter. Attorneys chosen for the panel will be notified by e-mail and directed to complete a Profile Form, if one is not already on file. An attorney who practices primarily in the Eastern Division but who prefers appointment to a case pending in the Western Division of this court should so notify the Clerk.

(iii) An attorney who is exempt from pro bono assignment pursuant to LR 83.35(d) shall notify the Clerk of the exemption when the attorney receives notice of his or her selection for the panel. The Clerk will remove the attorney’s name from the panel and from the pool for one year.

(iv) After accepting a pro bono assignment, trial bar members will ordinarily be eligible for subsequent pro bono assignment only after all non-exempt trial bar members have been assigned a pro bono case in accordance with this rule.

(c) **NOTIFICATION TO PANEL.** Following the selection of a panel the Clerk shall notify each member by e-mail and direct each member to complete a Profile Form, if one is not already on file. Such Form shall disclose:

- (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;
- (3) counsel’s preference, if any, for appointment to a case pending in the Western Division



of this Court.

The information set forth in the Form may be amended at any time by letter.

**(d) EXEMPTIONS.** A member of the trial bar may be removed from a panel upon request upon a showing that

- (1) the attorney's principal place of business is outside of this District, or
- (2) the attorney 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) the attorney is employed full-time as an attorney by a not-for-profit legal aid organization.

**(e) VOLUNTEERS.** A member of the trial bar may volunteer to be included in a pro bono panel at any time and will be assigned to the next available case.

**(f) COMPLETION OF SERVICE.** Any member of the trial bar who has accepted an assignment prior to the effective date of this rule is eligible for a further case assignment no earlier than 12 months following the completion of the attorney's most recent assignment. On and after the effective date of this rule, an attorney who has accepted an assignment under this rule will ordinarily not be assigned another case until every other member of the trial bar has been so assigned.

Amended December 23, 2016

## LR83.35. 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 trial bar to represent a party who lacks the resources to retain counsel. Such assignment shall only be in a civil action or appeal 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. It shall include a magistrate judge where the assignment 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 terms “*pro bono* rules” and “*pro bono* program” shall refer to [LR83.35](#) through [83.41](#).

(b) ~~CREATING THE PRO BONO PANEL~~ **PRO BONO ASSIGNMENT PROCESS.**

~~(i) At the start of each calendar year, the Clerk will create a pool consisting of the entire membership of the trial bar, including any new members, but excluding any members who have previously accepted an assignment. Names in the pool will be listed in random order.~~

~~————(ii) At the start of each calendar quarter, the Clerk will create a pro bono panel by selecting, in random order, the names of a number of trial bar members equal to the estimated number of pro bono assignments to be made in the following quarter. Attorneys chosen for the panel will be notified by e-mail and directed to complete a Profile Form, if one is not already on file. An attorney who practices primarily in the Eastern Division but who prefers appointment to a case pending in the Western Division of this court should so notify the Clerk.~~

~~————(iii) An attorney who is exempt from pro bono assignment pursuant to LR 83.35(d) shall notify the Clerk of the exemption when the attorney receives notice of his or her selection for the panel assignment. The Clerk will remove the attorney’s name from the panel and from the pool assignment list for one year.~~

~~(iv) After accepting a pro bono assignment, trial bar members will ordinarily be eligible for subsequent pro bono assignment only after all non-exempt trial bar members have been assigned a pro bono case in accordance with this rule.~~

(c) ~~NOTIFICATION TO PANEL.~~ Following the selection of a panel the Clerk shall notify each member by e-mail and direct each ———— member to complete a Profile Form, if one is not already on file. Such Form shall disclose:

- ~~(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;~~
- ~~(3) counsel’s preference, if any, for appointment to a case pending in the Western Division of this Court.~~

~~————The information set forth in the Form may be amended at any time by letter.~~

~~(d)~~ **EXEMPTIONS.** A member of the trial bar may be ~~removed from a panel exempted from assignment~~ upon request ~~upon a~~ with a showing that

- (1) the attorney's principal place of business is outside of this District, or
- (2) the attorney 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) the attorney is employed full-time as an attorney by a not-for-profit legal aid organization.

**(ed) VOLUNTEERS.** A member of the trial bar may volunteer ~~to be included in a pro bono panel for an assignment~~ at any time and ~~will~~ may be assigned to the next available case.

**(fe) COMPLETION OF SERVICE.** ~~Any member of the trial bar who has accepted an assignment prior to the effective date of this rule is eligible for a further case assignment no earlier than 12 months following the completion of the attorney's most recent assignment.~~ On and after the effective date of this rule, an attorney who has accepted an assignment under this rule will ordinarily not be assigned another case until every other member of the trial bar has been so assigned.

Amended December 23, 2016 and  
XXX

### LR83.36. 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 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 and listing any prior matters, pending or terminated, in which counsel has been assigned by any judge of this court to represent that party. 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 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.

#### **(b) Selection of Attorney**

**(i) By the Clerk.** Upon request from a judge, the Clerk will identify an attorney from the pro bono panel at random for assignment, provided that attorneys whose practice is primarily in the Western Division of this court will not be assigned to a case pending in the Eastern Division.

**(ii) By the Judge.** The judge presiding in any case retains discretion to assign counsel as set forth in IOP 8. Selection by a judge pursuant to IOP8 is the equivalent of selection by the Clerk for purposes of fulfilling the attorney's trial bar case representation requirement. An attorney selected by a judge must notify the Clerk of the assignment.

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

**(d) Making Private Counsel Court-Assigned.** A party represented by counsel, or the attorney may, due to the party's financial condition, seek to change the nature of the representation to court-assigned representation, in order to render counsel eligible for reimbursement of expenses from the District Court Fund pursuant to [LR83.40.](#) Such a change may be approved by the court on a petition. Any such petition shall confirm that approval of the change in representation will negate any existing fee agreements between the party and counsel, and that any subsequent fee agreements between the party and counsel will be made in accordance with the provisions of [LR83.41](#). The judge will grant the petition only if the judge would have granted an application filed under this rule had the party not been represented by counsel. Where a party is represented by more than one attorney, any order of assignment under this section shall preclude prospective operation of fee agreements with all such counsel but the assignment would be limited to those attorneys seeking such assignment.

Amended May 24, 2013 and December 23, 2016

## LR83.36. 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 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 and listing any prior matters, pending or terminated, in which counsel has been assigned by any judge of this court to represent that party. 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 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.

**(b) Factors Used in Determining Whether to Assign.** Upon receipt of an application for the assignment of counsel, the judge may first want to consider whether referral of the case to the William J. Hibbler Memorial Pro Se Help Desk or the Settlement Assistance Program is appropriate. If these referrals are not appropriate, the judge shall determine within a reasonable time whether counsel is to be assigned to represent the *pro se* party pursuant to 28 U.S.C. §1915(e). 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 assignment of counsel, including the benefit the court may derive from the assistance of assigned counsel; and
- (7) any other factors deemed appropriate by the judge.

~~(a)-(c)~~

### **(b) Selection of Attorney**

**(i) By the Clerk.** Upon request from a judge, the Clerk will identify an attorney from the pro bono ~~panel~~ assignment list at random for assignment, provided that attorneys whose practice is primarily in the Western Division of this court will not be assigned to a case pending in the Eastern Division.

**(ii) By the Judge.** The judge presiding in any case retains discretion to assign counsel as set forth in IOP 8. Selection by a judge pursuant to IOP8 is the equivalent of selection by the Clerk for purposes of fulfilling the attorney's trial bar case representation requirement. An attorney selected by a judge must notify the Clerk of the assignment.

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

**(d)(e) Making Private Counsel Court-Assigned.** A party represented by counsel, or the attorney may, due to the party's financial condition, seek to change the nature of the representation to court-assigned representation, in order to render counsel eligible for reimbursement of expenses from the District Court Fund pursuant to [LR83.40.](#), Such a change may be approved by the court on a petition. Any such petition shall confirm that approval of the change in representation will negate any existing fee agreements between the party and counsel, and that any subsequent fee agreements between the party and counsel will be made in accordance with the provisions of [LR83.41](#). The judge will grant the petition only if the judge would have granted an application filed under this rule had the party not been represented by counsel. Where a party is represented by more than one attorney, any order of assignment under this section shall preclude prospective operation of fee agreements with all such counsel but the assignment would be limited to those attorneys seeking such assignment.

Amended May 24, 2013~~and~~, December 23, 2016  
and XXXX

### **LR83.38. Relief from Assignment**

**(a) Grounds; Application.** After assignment counsel may move for relief from 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) Counsel is 70 years of age or older, has no active appearance on file in any case in this District and requests relief from the assignment. Relief under this provision does not require withdrawal from the trial bar or alternate pro bono assignment.
- (2) Some conflict of interest precludes counsel from accepting the responsibilities of representing the party in the action.
- (3) In counsel's opinion, counsel is not competent to represent the party in the particular type of action assigned.
- (4) Some personal incompatibility or a substantial disagreement on litigation strategy exists between counsel and the party.
- (5) Because of the temporary burden of other professional commitments involved in the practice of law, counsel lacks the time necessary to represent the party.
- (6) 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 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.

Where the attorney requesting withdrawal from a *pro bono* assignment has previously withdrawn from another recruitment, the application shall disclose the case name and number, the nature of the assignment and the reason for withdrawal.

**(b) Order Granting Relief.** If an application for relief from an order of assignment is granted, 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. Such assignment shall be made in accordance with the procedures set forth in [LR83.36](#). 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*.

**(c) Consequences of Relief from Assignment.**

Where the judge enters an order granting relief from an order of assignment on the basis of LR 83.38(a)(4) (substantial disagreement with the client) or LR 83.38(a)(5) (determination that the case is frivolous or filed for improper purpose), or LR 83.39 (discharged by the client), the judge shall determine whether the attorney has satisfied the case representation obligation or should be placed in the next pro bono panel.

Where the judge enters an order granting relief from an order of assignment because the assignment would create a conflict with a current representation, the attorney will be returned

to the pro bono panel for another assignment.

Where the judge enters an order granting relief from an order of assignment on the grounds that counsel lacks relevant substantive expertise or lacks the time to represent the party due to a temporary burden of other professional commitments, counsel so relieved shall, except as otherwise provided in the order, automatically be included among the names selected for the next panel. An attorney relieved of assignment on such grounds will, within one year

(1) obtain any necessary substantive expertise and

(2) certify that the attorney has engaged in one of the following alternatives to case representation:

(i) at least 50 hours of substantial alternative pro bono effort in a trial or settlement context (for example, service to the indigent or service to a governmental or civic organization);

(ii) volunteering at either the District Court's Hibbler Memorial Pro Se Help Desk or the Bankruptcy Assistance Desk for at least one three-hour shift per month for one full year or twelve total shifts over the course of the year. An attorney electing this alternative must complete or have completed a Pro Se Help Desk or Bankruptcy Assistance Desk training session before beginning service;

(iii) service as counsel for two appointments with the court's Settlement Assistance Program. An attorney electing this alternative must complete or have completed a Settlement Assistance Program training session before the appointments.

An attorney who fails to satisfy one of these alternatives will, absent good cause, be deemed to have withdrawn from the trial bar.

Amended December 23, 2016, March 29, 2018;  
April 22, 2018; February 24, 2023



## LR83.38. Relief from Assignment

**(a) Grounds; Application.** After assignment, counsel may move for relief from 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) Counsel is 70 years of age or older, has no active appearance on file in any case in this District and requests relief from the assignment. Relief under this provision does not require withdrawal from the trial bar or alternate pro bono assignment.
- (2) Some conflict of interest precludes counsel from accepting the responsibilities of representing the party in the action.
- (3) In counsel's opinion, counsel is not competent to represent the party in the particular type of action assigned.
- (4) Some personal incompatibility or a substantial disagreement on litigation strategy exists between counsel and the party.
- (5) Because of the temporary burden of other professional commitments involved in the practice of law, counsel lacks the time necessary to represent the party.
- (6) 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 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.

Where the attorney requesting withdrawal from a *pro bono* assignment has previously withdrawn from another ~~recruitment~~assignment, the application shall disclose the case name and number, the nature of the assignment and the reason for withdrawal.

**(b) Order Granting Relief.** If an application for relief from an order of assignment is granted, 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. Such assignment shall be made in accordance with the procedures set forth in [LR83.36](#). 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*.

### **(c) Consequences of Relief from Assignment.**

Where the judge enters an order granting relief from an order of assignment on the basis of LR 83.38(a)(4) (substantial disagreement with the client) or LR 83.38(a)(5) (determination that the case is frivolous or filed for improper purpose), or LR 83.39 (discharged by the client), ~~or for some other reason the attorney has performed substantial work on the assignment,~~ the judge shall determine whether the attorney has satisfied the case representation obligation or should be ~~placed in the next pro bono panel~~eligible for a new assignment.

Where the judge enters an order granting relief from an order of assignment because the assignment would create a conflict with a current representation, the attorney will be ~~returned to the pro bono panel~~eligible for another assignment.

Where the judge enters an order granting relief from an order of assignment on the grounds that counsel lacks relevant substantive expertise or lacks the time to represent the party due to a temporary burden of other professional commitments, counsel so relieved shall, except as otherwise provided in the order, automatically be ~~included among the names selected for the next panel~~eligible for a new assignment in 12 months time. An attorney relieved of assignment on such grounds will, within one year

- (1) obtain any necessary substantive expertise, if that is the reason for relief from assignment, and
- (2) certify that the attorney has engaged in one of the following alternatives to case representation in the 12 months prior to certification:
  - (i) at least 50 hours of substantial alternative pro bono effort in a trial or settlement context (for example, service to the indigent or service to a governmental or civic organization);
  - (ii) volunteering at either the District Court's William J. Hibbler Memorial Pro Se Help Desk or the Bankruptcy Assistance Desk for at least one ~~three hour~~ shift per month for ~~one full year or twelve six months or six~~ total shifts over the course of the year. An attorney electing this alternative must complete or have completed a Pro Se Help Desk or Bankruptcy Assistance Desk training session before beginning service;
  - (iii) service as counsel for ~~two appointments~~one assignment with the court's Settlement Assistance Program. An attorney electing this alternative must complete or have completed a Settlement Assistance Program training session before the ~~appointments~~assignment.

An attorney who fails to satisfy one of these alternatives will, absent good cause, be deemed to have withdrawn from the trial bar.

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## **LR83.40. Expenses**

**(a)** Any party for whom counsel has been recruited by the Court pursuant to [LR 83.36](#) and has filed an appearance on behalf of the party shall bear expenses of the litigation to the extent reasonably feasible considering the party's financial condition. Such expenses shall include, but not be limited to discovery expenses, subpoena and witness fees, and transcript expenses. If the party is unable to pay the expenses of litigation, recruited counsel may advance part or all 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. The assigned attorney or firm is not required to advance the payment of such expenses.

**(b)** Counsel recruited pursuant to LR 83.36 may obtain prepayment or reimbursement of expenses from the District Court Fund in accordance with the provisions of the [Regulations Governing the Prepayment and Reimbursement of Expenses in Pro Bono Cases](#). If a party derives funds from a settlement, judgment, or other award of costs or fees in excess of \$50,000, the receiving party shall be required to reimburse the District Court Fund for any expenditures in excess of \$5,000 (other than interpreter fees) made on behalf of that party. Receipt of payments and reimbursements from the District Court Fund operates as the receiving party's consent to this reimbursement requirement. If the receiving party does not derive settlement funds in excess of \$50,000, no such reimbursement is required.

Amended June 30, 2015, December 23, 2016,  
March 22, 2019, November 20, 2020, and February 24, 2023

## LR83.40. Expenses

(a) Any party for whom counsel has been ~~recruited-assigned~~ by the Court pursuant to [LR 83.36](#) and has filed an appearance on behalf of the party shall bear expenses of the litigation to the extent reasonably feasible considering the party's financial condition. Such expenses shall include, but not be limited to discovery expenses, subpoena and witness fees, and transcript expenses. If the party is unable to pay the expenses of litigation, ~~recruited-assigned~~ counsel may, but is not required to, advance part or all 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. ~~The assigned attorney or firm is not required to advance the payment of such expenses.~~

(b) Counsel recruited pursuant to LR 83.36 may obtain prepayment or reimbursement of expenses from the District Court Fund in accordance with the provisions of the [Regulations Governing the Prepayment and Reimbursement of Expenses in Pro Bono Cases](#). If a party derives funds from a settlement, judgment, or other award of costs or fees in excess of \$50,000, the receiving party shall be required to reimburse the District Court Fund for any expenditures in excess of \$5,000 (other than interpreter fees) made on behalf of that party. Receipt of payments and reimbursements from the District Court Fund operates as the receiving party's consent to this reimbursement requirement. If the receiving party does not derive settlement funds in excess of \$50,000, no such reimbursement is required.

Amended June 30, 2015, December 23, 2016,  
March 22, 2019, November 20, 2020, ~~and~~ February 24, 2023, and XXX