

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

**PROPOSAL TO AMEND
LOCAL RULE 83.38**

On September 28, 2022, the full Court approved a proposal to amend Local Rule 83.38 *Relief from Assignment* 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 Local Rule 83.38 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



Hon Rebecca R. Pallmeyer, Chief Judge

Dated at Chicago, Illinois this 5th day of October 2022

LR 83.38 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) 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 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 [LR 83.36](#). 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\(3\)](#) (substantial disagreement with the client) or [LR 83.38\(4\)](#) (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, 2019;

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(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, 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.

~~(4)~~(2) Some conflict of interest precludes counsel from accepting the responsibilities of representing the party in the action.

~~(2)~~(3) In counsel's opinion, counsel is not competent to represent the party in the particular type of action assigned.

~~(3)~~(4) Some personal incompatibility or a substantial disagreement on litigation strategy exists between counsel and the party.

~~(4)~~(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.

~~(5)~~(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.

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