

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

**FILED**

UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

OCT 18 1995

*R. Stummach*  
CLERK

IN THE MATTER OF:

Civil Pro Bono Plan of the  
United States District Court  
for the District of New Mexico

MISC. NO. 95-189

**ORDER**

THIS MATTER having come before the Court *sua sponte* and the Court being fully informed of the premises, therefore;

IT IS ORDERED that the **Civil Pro Bono Plan of the United States District Court for the District of New Mexico**, is adopted as follows:

**I. Selection of Panel.**

**A. Committee for Civil Pro Bono Panel Selection.** The Chief Judge will appoint a Civil Pro Bono Panel Selection Committee to oversee the operation of the Pro Bono Panel. This committee will consist of eight members, with six members of the committee required for a quorum. If needed, the size of the committee may be changed by the Chief Judge. The Pro Se Law Clerk will be a standing member of the committee. The committee may form subcommittees composed of committee or panel members to perform its duties. The duties of the committee will include:

1. Meet at least once a year to select attorneys to serve on the Pro Bono Panel.

2. Meet quarterly, or as needed, to review pro se cases that would benefit from appointment of an attorney.
3. Develop a plan for providing training for Pro Bono Panel members. Payment of costs of training will be provided from the Bench and Bar Fund.

**B. Civil Pro Bono Panel.** A panel of Pro Bono Attorneys will be selected by the Pro Bono Panel Selection Committee. The panel will consist of attorneys willing to accept appointments to represent pro se parties in civil actions when parties lack the resources to retain counsel. Service on this panel is voluntary, with payment of expenses as outlined below.

1. Selection Procedures.
  - a. Review of Applications. The Civil Pro Bono Panel Selection Committee will review all applications received and appoint attorneys to the panel when appropriate.
  - b. On approval of a Judge, the Pro Se Law Clerk may select an attorney to serve on the Pro Bono Panel.
2. Notice and Application. Public notice soliciting applications for selection to the panel will be made in the Bar Bulletin or any other suitable method of notification. Notice will provide interested attorneys and firms with the information needed to apply for selection to the panel. Information will include a copy of this plan and an application form.

3. **Size of Panel.**

- a. The size of the panel will be determined by the committee, dependent upon the number of qualified applicants and the need for attorneys based on the location and number of appointments of Pro Bono Attorneys made by the Court.

4. **Removal or Withdrawal from the Panel.** The committee may remove an attorney or firm from the panel at any time. An attorney may withdraw his/her name from service on the panel either on a temporary or permanent basis.

**II. Appointment of Pro Bono Counsel.**

- A. Whenever a judicial officer concludes that appointment of counsel is warranted, the Judge will issue an order directing the Clerk to appoint an attorney from the Civil Pro Bono Panel. The Clerk will appoint attorneys on a rotational basis from the panel of attorneys, based on expertise and geographical location or on recommendation of the committee. A judicial officer may direct the Clerk to appoint a specific member of the panel.
- B. Before assigning an attorney, the Clerk will determine whether the litigant has any other case pending before the Court and the nature of representation in this case. Where an appointed attorney is already representing the litigant in a prior action, the appointed attorney is encouraged, but not required, to represent the litigant in the new action. The Clerk shall inquire of the appointed counsel whether counsel will accept the appointment in the new action. If the appointed

counsel declines, the Clerk will appoint another attorney in accordance with this plan.

C. Upon selection for appointment of a Pro Bono Attorney, the Clerk will immediately send written notice of the appointment, the pleadings filed to date, relevant correspondence and other documents to the appointed attorney. The appointed attorney will review the case and either decline appointment or enter an appearance in the action. The Clerk will also send immediate written notice to the newly represented party and to all other parties.

1. Acceptance of Appointment or Withdrawal from Appointment.

- a. An appointed attorney may refuse an appointment, or apply to withdraw from appointment, for good cause shown.
- b. An appointed attorney will represent the party in the trial court from the date the attorney enters an appearance until he or she has been relieved from appointment, or until a final judgment is entered in the District Court.
- c. The appointed attorney is encouraged, but not required, to represent the party on the appeal and in any proceeding, judicial or administrative, which may ensue upon an order of remand.
- d. Where the appointed attorney elects not to represent the party on an appeal or in a proceeding upon remand, the attorney will advise the party of all required steps to be taken in perfecting the appeal or appearing in the proceeding on remand. Upon request of the

pro se party, the attorney will file the notice of appeal. The trial Judge may, upon the request of the party, appoint another attorney from the panel to represent the party on the appeal or further proceeding, in accordance with the Civil Pro Bono Plan.

- e. If at any time the party represented by an appointed attorney is found capable of paying for legal services, a judge may permit the party to:
  - (1) retain another attorney;
  - (2) continue to proceed pro se; or
  - (3) continue with the appointed attorney, but on a paying basis.
- f. Any attorney seeking relief from an appointment will follow the procedures for withdrawal of attorney in Local Rule 83.
- g. If an application for withdrawal from appointment is consented to or granted, the Judge may appoint or direct the Clerk to appoint another attorney from the panel to represent the party.
- h. The party represented by an appointed attorney is permitted to relieve the attorney from the representation. The party may ask the Judge to discharge the attorney. Upon a showing by affidavit of satisfactory reasons, the Judge may appoint a new attorney.

### **III. Payment of Expenses.**

- A. Payment of litigation expenses up to \$2,500 is available on a per case basis. Request for additional funds must be made to the Court. Application for

additional costs must be for good cause shown.

B. The appointed Pro Bono Attorney will provide the Clerk of Court with an itemized list of costs, including receipts. Upon approval by the Clerk, payment will be issued from the Bench and Bar Fund. An appointed attorney may request that the presiding judge review the Clerk's approval of expenses.

1. Acceptable costs will include:
  - a. Copy costs.
  - b. Attorneys travel expenses.
  - c. Deposition costs.\*
  - d. Other costs specifically taxable by local rule, federal rule, or statute.
2. Unacceptable costs include:
  - a. Costs of computerized legal research.
  - b. Expert witness fees, unless expert is appointed by the Court.
3. If the party is subsequently reimbursed for an expense that was paid in part by the Bench and Bar Fund, the party is required to reimburse the fund.
4. The Clerk will inform the party, at the time of appointment of counsel, that the appointed counsel in this case may apply for payment of costs and/or legal fees. The Clerk will also inform the party that the award of

---

\*The Clerk's office will keep a list of court reporters who are willing to provide pro bono transcripts to the party represented by a member of the Pro Bono Panel. The Pro Bono Attorney will attempt to use these reporters when possible.

attorney's fees or costs is decided by the presiding judge or through a negotiated settlement with the losing party.

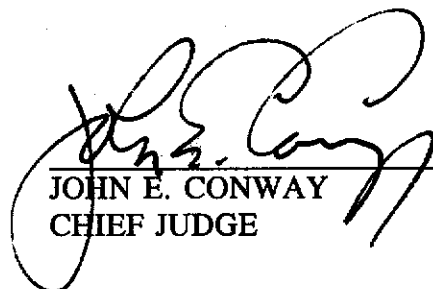
**IV. Annual Assessment to Bench and Bar Fund Committee.**

The Clerk of Court will provide to the Bench and Bar Fund Committee, an annual assessment of the number and type of cases that were assigned to the members of the Civil Pro Bono Panel and the benefit to the Court.

**V. Training.**

The Civil Pro Bono Panel Selection Committee will provide appropriate training classes to the members of the Pro Bono Panel. The panel members will receive CLE credit at no cost. The Bench and Bar Fund will provide funding for materials and costs incurred in acquiring CLE credit.

FOR THE COURT:



\_\_\_\_\_  
JOHN E. CONWAY  
CHIEF JUDGE

IN THE UNITED STATE DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

**FILED**  
UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

OCT 18 1995

*R. Stummach*  
CLERK

IN THE MATTER OF:

Paying Costs to  
Members of  
the Civil Pro Bono Panel

MISC. NO. 95-189

**ADMINISTRATIVE ORDER**

It appearing to the Court that there is a need to pay recurring expenses from the Bench and Bar Fund for funding Expenses of Pro Bono Panel Attorneys, therefore;

IT IS ORDERED that payment shall be made from the Bench and Bar Fund to compensate attorneys appointed from the Civil Pro Bono Panel for expenses incurred in representing pro se litigants in accordance with the Civil Pro Bono Plan adopted by the Court.

On approval of the U.S. District Court Clerk these expenses may be paid without majority approval of the Bench and Bar Committee and the U.S. District Court Judges for the District.

FOR THE COURT:

*John E. Conway*  
JOHN E. CONWAY  
CHIEF JUDGE