

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA



Plan for Pro Bono Representation by Appointment in Civil Cases

I. Overview

Recognizing there are exceptional civil cases that warrant the appointment of counsel for pro se litigants with limited financial resources, the Court establishes this plan governing those appointments. The Court encourages all members admitted to practice in the Middle District to accept pro bono appointment in civil cases.

II. Appointment of Counsel

- A. **Role of Bar Organizations.** To assist the Court with implementing this plan, the voluntary federal bar organizations in each division are encouraged to: (1) maintain a list of members of the bar of the Court willing to accept appointments; or (2) establish a process for publishing appointment opportunities to their membership.
- B. **Procedure.** If a judge finds that the appointment of pro bono counsel in a civil case is warranted, the judge may: (1) request that the Clerk of Court publish the pro bono opportunity on the Court's website; and (2) request that the Clerk of Court contact the voluntary federal bar organization in any division to request that the organization identify an attorney willing to accept the appointment or publish the appointment opportunity to its membership. If an attorney accepts the appointment, the judge will enter an order of appointment with reference to this plan. An order appointing counsel must direct appointed counsel to submit a proposed expense budget to the Clerk of Court no later than sixty days from the date of the order if counsel anticipates seeking reimbursement of expenses incurred in the representation. The Court will review the proposed expense budget in accordance with Section III of this plan.

- C. **Scope.** A judge may appoint an attorney generally or for a limited purpose (for example, to represent a litigant during a settlement conference or trial, to file a response to a dispositive motion, or to appear at a deposition). An appointment is limited to the case for which appointment is made and the issues before the Court in that case. An appointment does not extend to a proceeding related or collateral to the case or that may ensue upon an order of dismissal or remand to state court.
- D. **Duration.** Unless the Court grants a motion to withdraw, appointed counsel must represent the party until final judgment, final resolution on a designated issue, or conclusion of a designated proceeding.
- E. **Withdrawal.** An attorney who wants relief from an appointment must move to withdraw under Local Rule 2.02(c).
- F. **Appeal.** Appointed counsel may, but is not required to, represent the client in any appeal. If appointed counsel decides not to represent the client on appeal, he or she must notify the client of the requirements of filing a notice of appeal or cross-appeal in time for such a notice to be filed.
- G. **Settlement.** Appointed counsel may not reject a settlement offer because the offer does not include attorney's fees if the pro bono client is willing to accept the offer to resolve the case.

III. Reimbursement and Budgeting of Expenses

- A. **Availability.** While appointed counsel is encouraged to pay any expenses he or she wishes, counsel may seek reimbursement for certain litigation expenses under this plan. As outlined below, the reimbursement process is accomplished in two phases. First, counsel submits a [Proposed Expense Budget](#) form, which the Court must approve before expenses are incurred. Second, at the conclusion of the case, counsel submits a [Petition for Reimbursement of Civil Pro Bono Expenses](#) form, which the Court also must approve before any reimbursement.
- B. **Other Sources.** Appointed counsel should first pursue any expenses recoverable under the United States Code, the Federal Rules of Civil Procedure, any contractual provision, or the like, before requesting reimbursement under this plan.

- C. **Standard.** The Court will reimburse expenses for the preparation and presentation of the case to the extent they are reasonable, necessary, and otherwise recoverable under this plan. The Court will determine the reasonableness and necessity of expenses on a case-by-case basis.
- D. **Limit.** Total reimbursements in any case will not exceed \$30,000 absent demonstrated exceptional circumstances.
- E. **Reimbursable Expenses.** The Court **may** reimburse the following expenses:
1. Fees for the attendance of court reporters.
 2. Subpoena fees.
 3. Witness fees.
 4. Expenses for hearing or deposition transcripts.
 5. Expenses for an investigator up to \$100 an hour.
 6. Expenses for an expert.
 7. Expenses for travel (limited to lodging expenses and transportation expenses with mileage at the rate for official government travel in effect during the travel).
 8. Expenses for an interpreter.
 9. Expenses for copying and printing unless electronic submission of documents would have sufficed.
 10. Expenses for delivery service unless electronic submission of documents would have sufficed.
 11. Mediation fees.
- F. **Non-Reimbursable Expenses.** The Court **will not** reimburse for the following expenses:
1. Expenses for office overhead, including long-distance telephone calls, facsimile transmissions, and secretarial expenses.
 2. Computer-assisted research.
 3. Expenses not ordinarily billed to a fee-paying client.

4. Expenses recovered through settlement.
5. Expenses not properly documented.
6. Expenses recovered after an award under the United States Code, the Federal Rules of Civil Procedure, any contractual provision, or the like.
7. Expenses awarded against appointed counsel or the party represented by appointed counsel.
8. Any filing fee, service-of-process fee, or other expense paid by the represented party before appointment of pro bono counsel.
9. Any expense associated with an appeal to the United States Court of Appeals for the Eleventh Circuit.
10. Attorney's fees.
11. Any expense that was not included in an approved proposed expense budget.
12. For any single expense, any amount greater than what was approved in a proposed expense budget.

G. Budgeting.

1. **Requirement.** Appointed counsel who anticipates seeking reimbursement of expenses under this plan must submit a completed [Proposed Expense Budget](#) form to the Clerk's Office following the [instructions provided on the Court's website](#) no later than sixty days after the date of the order of appointment. A proposed expense budget will not be made part of the docket or otherwise shared with opposing counsel.
2. **Content.** A proposed expense budget must be commensurate with the full scope of the appointment and itemize all reimbursable expenses appointed counsel reasonably anticipates will be incurred in connection with the appointment. Appointed counsel must make every effort to ensure that the amount estimated for any itemized expense in the budget is reasonable, realistic, and adequate. The Court will not reimburse any expense that was not included in the proposed expense budget and approved under this plan. Additionally, the Court will only reimburse any single expense up to the amount reflected in the proposed expense budget

approved under this plan, even if the actual incurred cost for that expense is greater than the budgeted amount.

3. **Amendment.** Appointed counsel may submit an amended proposed expense budget at any time during the appointment if the circumstances of the case necessitate incurring additional reasonable expenses that were not anticipated or expenses in higher amounts than were anticipated at the time an earlier proposed expense budget was approved. An amended proposed expense budget must be approved under this plan before the Court will reimburse any new or greater expenses that were not previously approved.
 4. **Effect of Approval.** When a proposed expense budget is approved under this plan, reimbursement for any itemized expense included in the approved budget will not subsequently be denied up to the approved budgeted amount so long as appointed counsel has actually paid the expense.
- H. **Approval Authority.** Approval of a proposed expense budget and a petition for reimbursement may be obtained as follows:
1. A presiding judge must approve a proposed expense budget and a petition for reimbursement for total expenses up to \$20,000.
 2. A presiding judge and the Bench Bar Fund Committee must approve a proposed expense budget and a petition for reimbursement for total expenses that exceed \$20,000.
- I. **Reconsideration.** If a proposed expense budget or a petition for reimbursement is denied, appointed counsel may, within thirty days of the denial: (1) request reconsideration from the same level of review or, if there is one, from the next highest level of review; or (2) request reconsideration from the Board of Judges.
- J. **Routing.** The Clerk of Court will route a proposed expense budget and a request for reimbursement to obtain approvals or, if requested, reconsideration in the following order: first to the presiding judge; then, if necessary, to the Bench Bar Fund Committee; then, if necessary, to the Board of Judges.
- K. **Consideration.** At each level of review, the request will be considered as expeditiously as possible.

- L. **Petition Form.** Appointed counsel may request reimbursement of expenses by submitting a completed [Petition for Reimbursement of Civil Pro Bono Expenses](#) form following the [instructions provided on the Court's website](#).
1. A petition will not be made part of the docket or otherwise shared with opposing counsel.
 2. Appointed counsel must submit supporting documentation with a petition.
 3. A petition ordinarily must include all reimbursement requests in a single submission.
 4. Appointed counsel may not request reimbursement for an expense that was not included in an approved proposed expense budget.
 5. Appointed counsel may not request reimbursement for any itemized expense in an amount greater than the amount included in an approved proposed expense budget for that expense.
 6. Appointed counsel must first pay any expense before seeking reimbursement from the Court and may not submit unpaid invoices to the Court for direct payment to any provider. The Court will not issue payment directly to a provider.
- M. **Timing.** Appointed counsel may not request reimbursement before the case is closed or the representation has otherwise ended and must request reimbursement no later than forty-five days after the earlier of either. Upon demonstrated exceptional circumstances, however, appointed counsel may request interim reimbursement for incurred expenses exceeding \$10,000 before the case is closed or the representation has ended.
- N. **Apportionment.** If appointed counsel has withdrawn or been dismissed before the end of the case, the Court may withhold reimbursement of expenses until the end of the case to properly apportion expenses between counsel.
- O. **Later Recovery.** If the Court reimburses any expense later recovered, the attorney must return the amount to the Court.