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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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IN THE MATTER OF:  
PRO BONO PROGRAM

GENERAL ORDER 2019-07

WHEREAS, attorneys admitted to practice in this District have a strong tradition of providing *pro bono* representation to indigent litigants in civil cases in the courts of the State of Nevada;

WHEREAS, the Federal Bar Association, William S. Boyd School of Law, Legal Aid Center of Southern Nevada, Nevada Legal Services, and Washoe Legal Services are willing to support and coordinate providing qualified volunteer lawyers to represent indigent *pro se* litigants in this District;

WHEREAS, volunteer lawyers provide an extremely valuable service, which enhances our legal system;

WHEREAS, volunteer lawyers who provide their time and resources to preserve access to justice for those unable to afford a lawyer greatly assist this Court in the performance of its mission;

WHEREAS, the Judges of this District have authorized the implementation of the attached Program for the Representation of *Pro Se* Litigants;

IT IS THEREFORE ORDERED that the *Pro Bono* Program for the Representation of *Pro Se* Litigants in the United States District Court for the District of Nevada, attached hereto, is adopted.

1           IT IS FURTHER ORDERED that the Court's *Pro Bono* Committee is directed to maintain  
2 statistics measuring program activity and submit annual reports to the Judges of this District.

3           DATED this 25<sup>th</sup> day of October 2019.

A handwritten signature in blue ink, appearing to read 'M. Du', written over a horizontal line.

MIRANDA M. DU, CHIEF JUDGE  
UNITED STATES DISTRICT COURT

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1 not an endorsement of the merits of the case. Whether to refer a case for appointment is  
2 discretionary and generally based on a number of factors, including but not limited to:

- 3 A. the inability of the *pro se* party to retain counsel by other means;
- 4 B. the potential merit of the claims as set forth in the pleadings;
- 5 C. the nature and complexity of the action, both factual and legal, including the need  
6 for factual investigation, the need for expert/s, and the overall needs of discovery;
- 7 D. the presence of conflicting testimony calling for a lawyer's presentation of evidence  
8 and cross-examination;
- 9 E. whether the *pro se* party has another case pending before the Court and, if so,  
10 whether counsel has been appointed in such case;
- 11 F. the capability of the *pro se* party to present the case;
- 12 G. the degree to which the interests of justice will be served by appointment of  
13 counsel, including the benefit the Court may derive from the assistance of  
14 appointed counsel;
- 15 H. whether reasonable costs and attorney's fees may be recoverable by the prevailing  
16 party in the action;
- 17 I. the degree to which it appears an early ADR procedure, such as a settlement  
18 conference or early neutral evaluation under Local Rule 16, may bring about an  
19 early, inexpensive and consensual resolution of the litigation by:
  - 20 (i) facilitating or improving communications between the parties;
  - 21 (ii) providing the parties an opportunity to be heard regarding their  
22 respective grievances, positions, concerns, goals and interests;
  - 23 (iii) promoting the parties' understanding of the strengths and weaknesses  
24 of their respective cases;
  - 25 (iv) limiting, narrowing or simplifying the issues in dispute;
  - 26 (v) restoring or preserving personal or business relations;
  - 27 (vi) otherwise creating an atmosphere conducive to settlement;

1 (vii) achieving settlement on terms not available through litigation; or  
2 (viii) achieving settlement of some or all issues as between some or all  
3 parties; and

4 J. any other factors deemed appropriate by the referring Judge.

5 (2) Scope of Appointment. Cases may be referred to the Program for either general  
6 purpose or limited purpose representation. Limited purpose representation will normally,  
7 though not necessarily, correlate to representation for purposes of participating in an  
8 Alternative Dispute Resolution proceeding under Local Rule 16, including early mediation  
9 conferences in Section 1983 prisoner litigation.

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11 **(b) Appointment.** Upon referral by a Judge to the Program, the case will be sent to the  
12 *Pro Bono* Liaison. The Liaison will gather pertinent materials, including copies of all  
13 necessary filings in the case, and forward them to Legal Aid Center of Nevada or Washoe  
14 Legal Services who, in turn, will screen the litigant for financial eligibility and will locate  
15 counsel willing to take on the pro bono representation.

16  
17 **(c) Appointment Response Form.** Within thirty (30) days after pro bono counsel accepts  
18 an appointment, counsel shall complete and return to the Liaison the *Pro Bono* Response  
19 Form, indicating: "Representation of [*pro se* litigant's name] for [type of appointment (*i.e.*  
20 "the limited purpose of" or "All Purposes"))] is accepted." *Pro bono* counsel shall also  
21 indicate that he/she has conferred with the litigant and that the litigant agrees to the  
22 representation. Should a *pro se* litigant determine not to accept representation by pro  
23 bono counsel, the Response Form shall so indicate. The decision by a *pro se* litigant not  
24 to participate in the Program may preclude further participation in the Program on the  
25 specific case for which representation was refused. It does not preclude the possibility of  
26 future participation in the Program in a different case.

27

1           **(d) Order of Appointment.** Upon receipt of the Appointment Response Form, the Liaison  
2 will forward the form along with a proposed order appointing pro bono counsel to the  
3 referring Judge. Absent unusual circumstances, pro bono counsel is expected to remain  
4 as counsel for the duration of the purpose of the appointment. Docketing of the order  
5 appointing *pro bono* counsel shall result in the setting of a public PROBONO case flag.  
6 Appointment under this Program does not extend to the appeal, if any, of a final decision,  
7 which shall be the responsibility of the client.

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9           **(e) Notice of Completion of Pro Bono Appointment.** The Notice of Completion Form  
10 is critical to the Program's success, the accuracy of case records, and the quality of  
11 service to *pro se* litigants. The Form shall be submitted within fourteen (14) days after  
12 completion of legal services rendered by *pro bono* counsel to the Liaison.

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14           **(f) Record of Attorney Appointments.** The Liaison, in conjunction with Legal Aid Center  
15 of Southern Nevada and Washoe Legal Services, will maintain a record of appointments  
16 and provide an annual written report to the *Pro Bono* Committee and Chief District Judge.

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18           **(g) Waiver of CM/ECF Fees.** Attorneys who have taken on the *pro bono* representation  
19 shall not be charged fees for use of the Court's electronic filing system (PACER) in the  
20 case on which they are serving as *pro bono* counsel.

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22           **(h) Liability Insurance.** Participating attorneys will be eligible for professional errors and  
23 omissions insurance coverage provided by Legal Aid Center of Southern Nevada or  
24 Washoe Legal Services, to the extent such coverage is available.

25  
26           **(i) Business Entities Not Eligible.** Business entities are not eligible for participation in  
27 the Program.

1           **(j) Pro Hac Vice.** Attorneys who file for *pro hac vice* status will not be charged the petition  
2 filing fee in a case where they are serving as *pro bono* counsel.

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4           **SECTION 2. EXPENSES**

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6           **(a) Reimbursement of Reasonable Expenses.** An attorney assigned pursuant to the  
7 Program to represent a party in a proceeding before this Court may apply for  
8 reimbursement from the Court Fund of reasonable, eligible expenses not paid by the  
9 party. Before seeking reimbursement of costs, pro bono counsel must seek payment from  
10 the party, to the extent feasible. The “Court Fund” consists of an annual allowance made  
11 by the District of Nevada’s Attorney Admission Fund to the Pro Bono Committee to use  
12 in the Committee’s discretion for reimbursement of eligible costs on a pro rata basis.

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14           **(b) Advancement of Expenses.** The assigned attorney or firm may, but is not required  
15 to, advance the payment of expenses. Assigned counsel or the firm with which counsel  
16 is affiliated may advance part or all of the payment of any such expenses without requiring  
17 that the counsel or firm remain ultimately liable for such expenses. In appropriate  
18 circumstances, the Pro Bono Committee may approve an advance of costs requested by  
19 pro bono counsel.

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21           **(c) Expenses Eligible for Reimbursement from the Court Fund.**

- 22           1. Deposition and Transcript Costs. Except as otherwise ordered by the Court, the  
23 cost of the original of any transcript or deposition together with the cost of one copy  
24 each where needed by counsel and, for deposition, the copy provided to the Court  
25 shall be eligible for reimbursement.
- 26           2. Travel Expenses. Reasonable costs of travel, of more than 50 but less than 200  
27 miles, by privately owned automobile are eligible for reimbursement at the rate

1 currently prescribed for federal judiciary employees who use a private automobile  
2 for conduct of official business ("Reimbursed Vehicle Rate"), plus parking fees,  
3 tolls, and similar expenses, provided, however, that if the cost of a vehicle rental  
4 plus fuel ("Rental Vehicle Rate") is less expensive than the Reimbursed Vehicle  
5 Rate, reimbursement shall be capped at the Rental Vehicle Rate, plus parking  
6 fees, tolls, and similar expenses. Reasonable costs for transportation other than  
7 by privately owned automobile may be claimed on an actual expense basis. Actual  
8 expenses reasonably incurred shall be guided by the prevailing limitations placed  
9 upon travel and subsistence expenses of federal judiciary employees in  
10 accordance with existing government travel regulations.

11 3. Service of Papers; Witness Fees. Fees for service of papers and the appearances  
12 of witnesses that are not otherwise avoided, waived, or recoverable are eligible for  
13 reimbursement.

14 4. Interpreter Services. Reasonable costs of interpreter services not otherwise  
15 avoided, waived, or recoverable are eligible for reimbursement. The fees/rates are  
16 subject to a reasonableness standard and may not exceed the hourly rate  
17 established by the Criminal Justice Act.

18 5. Experts. Reasonable costs for expert services, other than interpreters, not  
19 otherwise avoided, waived, or recoverable, are eligible for reimbursement.

20 6. Expenses Ineligible for Reimbursement from the Court Fund. General office  
21 expenses, including personnel costs, rent, telephone services, secretarial help,  
22 and photocopying, are not reimbursable from the Court Fund. Any costs incurred  
23 in conducting computer assisted legal research is not reimbursable from the Court  
24 Fund. The expense of printing briefs, regardless of the printing method utilized, is  
25 not reimbursable from the Court Fund.

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1           **(d) Limits for Reimbursements.**

- 2           1. Types of Actions. Only those expenses associated with the preparation of a civil  
3           action in the U.S. District Court for the District of Nevada shall be eligible for  
4           reimbursement. For clarity, costs associated with the preparation or presentation  
5           of an appeal to the U.S. Court of Appeals or the U.S. Supreme Court shall not be  
6           reimbursed from the District Court Fund. Reimbursement from the Court Fund may  
7           be limited by funds available.
- 8           2. Dollar Limits. To the extent the represented party is unable to bear all or part of the  
9           costs of litigation, advances plus reimbursements are limited to \$2,500 in  
10          aggregate.

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12          **(e) Procedures for Obtaining Reimbursement or Advance.**

- 13          1. Reimbursement. A request for reimbursement must be made by application to the  
14          Pro Bono Committee for reasonable expenses not paid by the litigant. All requests  
15          must be submitted through the Liaison. Requests may be made at any time after  
16          the expense has been paid and during the pendency of the proceedings and up to  
17          thirty days following the entry of judgment in the proceedings. The request shall  
18          set forth the reason for the request and the amount of the expense, as well as any  
19          expenses that have already been advanced and/or reimbursed in the action on  
20          behalf of the party. The Committee may condition approval of such requests  
21          subject to the availability of funds at the time of the request.
- 22          2. Advance. A request for an advance disbursement to cover an expense must be  
23          made by application to the Pro Bono Committee. All requests for preapproval and  
24          advancement must be submitted through the Liaison. The request shall set forth  
25          the reason for the request and the estimated amount of the expense, as well as  
26          any expenses that have already been advanced and/or reimbursed in the action  
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1 on behalf of the party. The Committee may condition approval of such requests  
2 subject to the availability of funds at the time of the request.

- 3 3. Format. Any request made under this Section 2 may be made ex parte, and shall  
4 include the voucher form approved by the Committee and available on the Court's  
5 website. The request shall be accompanied by sufficient documentation to permit  
6 a determination that the request is appropriate and reasonable, and if the expense  
7 has already been paid.

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9 **(f) Repayment to the Court Fund.** To the extent a party assigned counsel under the  
10 Program obtains a monetary award through settlement, final judgment, or an award of  
11 taxable costs or attorney fees; the party shall reimburse the Court Fund as follows:

- 12 1. Repayment Limits in case of Settlement or Judgment. If a party settles or obtains  
13 a judgment in excess of the party's previous reimbursement from the Court Fund,  
14 full repayment to the Court Fund is required. If a party settles or obtains judgment  
15 in an amount that is less than the previously approved reimbursement, the Court  
16 Fund shall be repaid at a rate of 50 cents on the dollar in an amount not to exceed  
17 fifty percent (50%) of the total settlement or judgment.
- 18 2. Amounts to be Repaid from Cost or Attorney Fee Award. Where a party prevails  
19 and is awarded taxable costs or attorney fees, the Court Fund shall be repaid in  
20 full, first from the cost award and then from the attorney fees award, not to exceed  
21 the total amount of the awards.

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23 **(g) Extraordinary Expenses.** If pro bono counsel has incurred expenses of an  
24 extraordinary nature, and after exhausting the maximum amount reimbursable from the  
25 Court Fund as set forth in paragraph 2(d)(1) above, counsel may apply to the Attorney  
26 Admission Fund of the District of Nevada for additional reimbursement. Any such  
27 application by counsel must:

- 1           1. demonstrate that the expenses are extraordinary and not an expense typically  
2           incurred by counsel in the handling of a pro bono assignment, such as those costs  
3           identified in Section 2(c), or if the expense is of a type listed in Section 2(c), that  
4           the amount in excess of \$2,500 was essential to effective representation of the pro  
5           bono client;
- 6           2. be accompanied by the presiding judge’s determination that the extraordinary  
7           costs for which pro bono counsel seeks reimbursement were reasonable and  
8           necessary; and,
- 9           3. provide documentation by pro bono counsel that the client represented is unable  
10          to reimburse pro bono counsel for the extraordinary expenses for which  
11          reimbursement is sought.

12          The AAF Committee will then make a recommendation as to whether to grant the pro  
13          bono counsel’s application for reimbursement of extraordinary costs, which will be placed  
14          on the agenda of the next quarterly judges’ meeting.

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16          **SECTION 3. COMPENSATION FOR SERVICES**

17          **(a)** Upon appropriate application, the Judge may award attorney fees against an opposing  
18          party for services rendered in the action as authorized under applicable statutes,  
19          regulations, rules, or other provisions of law, and as the Judge deems just and proper  
20          considering the applicable legal standards.

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22          **(b)** If, after appointment, the appointed attorney discovers the party, due to changed  
23          circumstances, is no longer financially eligible as originally determined pursuant to  
24          Section 1(b), the attorney shall bring this information to the attention of the assigned  
25          Judge, who may thereupon (i) approve a fee arrangement, including a contingency  
26          fee arrangement, between the party and the appointed attorney, or (ii) relieve the  
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1 attorney from the responsibilities of the order of appointment and permit the party to  
2 retain an attorney or proceed *pro se*.

3  
4 **(c)** Nothing in these rules shall preclude or limit appointed counsel and the *pro se* litigant  
5 from entering into a contingency fee agreement, subject to any legal and ethical  
6 obligations, at the outset of the appointment. Except as provided in subsection (b) of  
7 this section, any such agreement shall be made within the time frame for submitting  
8 the Appointment Response Form, which shall indicate that a contingency fee  
9 agreement is in place. In the case of a contingency agreement or other arrangement  
10 made under this subsection or subsection (b), appointed *pro bono* counsel is not  
11 eligible for advancement or reimbursement of costs or expenses from the Court Fund.  
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