

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS**

**Plan for Accepting Requests from Indigent Parties for Pro Bono Counsel
in Adversary Proceedings**

July 1, 2015

The objective of this *Plan for Accepting Requests for Pro Bono Counsel for Indigent Parties in Adversary Proceedings* (Plan) is to facilitate the representation of indigent parties in adversary proceedings with volunteer attorneys. This Plan does not apply in bankruptcy cases.

I. Responsibilities of Pro Bono Coordinator

The Pro Se Clerk shall be the Court's Pro Bono Coordinator and shall administer the Plan in the manner set forth below.

II. Procedures

- A. Individual pro se parties in Adversary Proceedings may file an Application for Pro Bono Counsel. In addition to the Application, the party shall complete a Supplemental Questionnaire and prepare schedules, if they have not already been filed in a bankruptcy case, submit supporting documents and sign an Affidavit of Indigence. These documents will be reviewed by the Pro Bono Coordinator and may request supplemental documentation as may be necessary to administer this Plan.
- B. An applicant's financial information will not be made available to the parties or the public, but the Application will be docketed. Among the criteria the court will consider:
 - 1. Whether the applicant's household income is 200 per cent or below of the HHS Poverty Guidelines;
 - 2. The value of the applicant's assets;
 - 3. Whether the applicant has made a good faith effort to secure representation but was unable to do so.
 - 4. The factual and legal complexities presented in the Adversary Proceeding.
- C. Appropriate action will be taken within 15 days of the filing of the Application.

III. Designation of Cases for Pro Bono Representation and Selection of Counsel

- A. Volunteer attorneys must first complete and submit an Application ("Attorney Application").
- B. Whenever a judicial officer determines that a request for pro bono counsel should be approved, the judicial officer shall issue an order granting the indigent party's request. The order shall be transmitted forthwith to the Pro Bono Coordinator. The Pro Bono Coordinator will circulate to Volunteers a description of the case for which the request has been allowed.
- C. If after review representation is declined or if a Volunteer attorney cannot appear in the case in accordance with Section II, the Pro Bono Coordinator shall continue to poll the

panel of volunteers. Alternatively, the Pro Bono Coordinator may recommend that the judicial officer vacate the order.

- D. Attorneys are not appointed by the Court, nor is a right to counsel created by the order allowing the Application.

IV. Appearances

After representation has been secured in the case in accordance with Section III, the Pro Bono Coordinator shall immediately send to counsel a copy of the party's pro se pleadings, a copy of the docket sheet, and any additional materials that the Court believes might be of assistance to Counsel in handling the matter.

V. Scope and Duration of Representation

It is expected that the scope of representation shall be limited solely to those matters at issue before the Court in the Adversary Proceeding. Counsel shall represent the party in the action until final judgment is entered in the action, or the issue or issues designated by the judicial officer have been resolved, unless a judicial officer grants a motion to withdraw.

If the party desires to take an appeal from a final judgment, volunteer counsel may assist the party in filing a notice of appeal without being bound to handle the appeal. Nothing in this paragraph precludes or prohibits the volunteer and the party from agreeing to terms of representation in any appeal.

VI. Expenses and Compensation for Services

Volunteer Counsel may apply for reimbursement of expenses from the Court in accordance with the Court's *Guidelines Governing the Reimbursement of Expenses in Pro Bono Cases*. Insofar as expenses are not reimbursed by the Court, counsel shall bear the cost of any expenses. **Reimbursement of expenses is contingent on available funding at that time.** Expenses of appeal are not compensable under this Plan.

Attorneys appearing on a pro bono basis are in no way prohibited from assertion of interim or final claims for attorneys' fees and costs under 42 U.S.C. § 1988 or otherwise recoverable under applicable law.

If after appearance, Volunteer Counsel discovers that the party is able to pay for legal services in whole or in part, or discovers that the party is not eligible for pro bono services under the criteria established by the Plan, the attorney shall bring that information to the attention the Pro Bono Coordinator and then the judicial officer. Thereupon the judicial officer may (1) approve the entry into a fee agreement between the party and the attorney or (2) allow a Motion to Withdraw in order to permit the party to retain another attorney or proceed pro se.