

Federal Pro Bono Project  
*of the*  
United States District Court  
Northern District of California  
*with*  
The Bar Association of San Francisco  
Volunteer Legal Services Program  
*and*  
Santa Clara County Bar Association

GUIDELINES

1. Selection of Cases. The Federal Pro Bono Project has been established to attempt to secure pro bono representation for litigants meeting the following criteria:
  - a. The litigant must be *in propria persona*.
  - b. The litigant must not have the financial resources to retain counsel.
  - c. The litigant must have used reasonable (but unsuccessful) efforts to retain private counsel including, but not limited to, attempting to locate counsel through a California State Bar-approved lawyer referral service.
  - d. The Court must determine the case is one which warrants pro bono representation.
  
2. Referral of Cases to the Project. The Court may refer litigants to The Volunteer Legal Services Program of the Bar Association of San Francisco (“BASF”) or Santa Clara County Bar Association (“SCCBA”) on its own motion or upon granting the litigant’s motion. A sample “Order Referring Litigant to Federal Pro Bono Project and Staying Proceedings Pending Appointment of Counsel” is attached to these Guidelines as Exhibit A. The Court may appoint counsel for limited purposes such as: representation on a dispositive motion, conduct of a single deposition or addressing particular claims.

The following procedure will be observed once a litigant has been selected by the Court for referral to the Project:

- a. The Court will notify the administrator or staff of the BASF/SCCBA of the referral by completing and mailing the appropriate referral form. (Exhibit B).
- b. The Court will give the litigant a copy of the attached “Instructions to Litigant” Information Sheet (attached as Exhibit C). This sheet explains the Project to the litigant. The litigant should be admonished by the Court to follow the instructions on the sheet carefully and that failure to do so may result in the litigant being removed from the program.
- c. The Court will arrange for one copy of the court file to be forwarded to the BASF/SCCBA with the referral form or as soon thereafter as the file is available.

- d. The BASF/SCCBA staff will attempt to locate within thirty (30) days counsel willing to be appointed by the Court to represent the litigant on a pro bono basis. The Project staff will interview the litigant to insure suitability for representation. Should the staff find representation is not suitable or available, he/she will notify the Court by letter. Once a volunteer attorney is located, the Judge will be notified of the identity of the volunteer attorney.
  - e. Upon entering an appearance in the action, the appointed attorney shall communicate promptly with the litigant and shall diligently and competently represent that party's interests consistent with the scope of appointment.
3. Stay of Proceedings Until Four Weeks After Appointment of Counsel. At the time a litigant is referred to the program, the Court will stay all proceedings in the action for a period to and including four weeks from the date a volunteer attorney is appointed by the Court to represent the litigant. The purpose of the stay is to permit the volunteer attorney sufficient time to meet and interview the client, review the case file and conduct preliminary investigation and legal research.
  4. Project Contact Persons:

<p>Jennifer Greengold  (415) 626-6917; fax (415)626-6997  Supervising Attorney  Federal Legal Assistance &amp; Pro Bono Project  Volunteer Legal Services Program of BASF  450 Golden Gate Ave, 15<sup>th</sup> Floor, rm 15-2796  San Francisco, CA 94102  jgreengold@sfbar.org</p>	<p>Christine A. Burdick  (408) 287-2557; fax (408)850-1506  Executive Director  Santa Clara County Bar Association  4 North 2nd Street, #400  San Jose, CA 95113  ChrisB@scbba.com</p>
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  5. Request for Reconsideration of Referral. If the BASF/SCCBA contacts the referring judge or magistrate judge indicating that efforts to place a case have been or are likely to be unsuccessful, and the referring judge or magistrate judge continues to be of the opinion that the case should be referred, then the BASF/SCCBA staff will continue efforts to place the case with a volunteer attorney.
  6. Appointment of Counsel. Once a volunteer attorney has been located, the Court shall issue an order appointing that attorney to represent the litigant. A sample order is attached to these guidelines as Exhibit D.
  7. Status Conference at Expiration of Stay. As near a time as is practical after the expiration of the stay of proceedings in any referred case, the Court shall conduct a status conference with all parties represented. One purpose of the status conference shall be to consider whether expedited discovery and/or other proceedings are appropriate to facilitate efficient resolution of the case.
  8. Recruitment of Volunteer Attorneys. Volunteer attorneys will be selected from a panel recruited by BASF/SCCBA. All volunteers are required to be experienced litigators or to have attended a training program which may be offered by the BASF/SCCBA. Nothing in these guidelines shall be construed to preclude an attorney from recovering

attorneys' fees awarded to the plaintiff as the prevailing party or as part of a negotiated settlement of the case.

9. Supervision of Volunteer Attorneys. Any volunteer attorney who wishes to consult with an expert on a case referred through the Project may be assigned by BASF/SCCBA an "advisor attorney" from among a panel who are experienced in the substantive area and who have litigated in federal court. The identity of the advisor shall not be revealed to the client, nor will the advisor have direct contact with the client.
10. Attorney Withdrawal from Case. An appointed attorney considering withdrawing from a case must consult with the administrator of the BASF/SCCBA *prior* to filing a motion to withdraw.
11. Cost and Fee Reimbursement. The Court will order reimbursement for all out of pocket costs to any appointed attorney accepting clients through the Project under the following conditions:
  - a. The trial judge shall determine whether the expenses claimed are reasonable and necessary and may authorize reimbursement of costs up to \$10,000. More than \$10,000 will be available from the Court in any one case if good cause therefor is found by the trial judge, subject to approval of the Non-Appropriated Fund Committee of the Court. Any single expense in excess of \$1,000 must be approved by the trial judge prior to its incurrence or expenditure.
  - b. If appropriate, an appointed attorney is eligible to seek reimbursement for deposition expenses from the State of California's Transcript Reimbursement Fund, California Business & Professions Code §§ 8008 *et seq.*, before applying for reimbursement of such expenses from court funds.
  - c. Reimbursable costs shall include, but shall not be limited to, amounts reasonably and necessarily spent on:
    - i. Deposition costs, except to the extent reimbursed under the California State Transcript Reimbursement Fund
    - ii. Copying
    - iii. Serving of process and delivery service
    - iv. Filing fees, if any
    - v. Expert consultant and witness fees, if any
    - vi. Reasonable travel expenses for attorney
    - vii. Reasonable investigation expenses
    - viii. Long-distance telephone

It is the policy of the Court that reimbursement requests for this Project be liberally considered.

- d. Cost reimbursement requests may be submitted by letter directly to the referring judge at:

United States District Court  
450 Golden Gate Avenue, 16th Floor  
San Francisco, CA 94102

Letters shall *not* be served on opposing parties.

- e. Any expenses paid pursuant to paragraphs(a) and (b) (*see* above) must be repaid to the court and/or to the State of California's Transcript Reimbursement Fund upon recovery of judgment or monetary settlement.
  - f. In compelling cases (*e.g.* where pro bono representation causes a severe financial hardship on the volunteer attorney), the trial judge, with approval by the Non-Appropriated Fund Committee of the Court, may authorize reimbursement of attorney's fees at rates commensurate with Criminal Justice Act rates up to a maximum amount of \$25,000.
  - g. Should the volunteer attorney recover attorney's fees by court award as provided by law or by settlement, any reimbursement of fees paid by the Court shall be repaid to the Court out of such recovery.
12. Attorney Fees. If the plaintiff is the prevailing party, the Court shall award attorneys' fees and costs against the opposing party as provided by law. Appointed counsel who negotiates settlement that also resolve the question of attorney's fees should be aware of the potential for conflict and make efforts to assure their clients' interests are not unfairly compromised. Also, these rules shall not be construed to require a litigant referred under the Project to waive an award of attorneys' fees as a condition of settlement.
13. Change in Litigant's Financial Condition. If at any time it appears that the litigant is able to afford private counsel, the Court's appointment shall terminate on the motion of the Court or the appointed attorney. The attorney and the litigant may then agree upon a fee arrangement for continued representation. If Court appointment is thus terminated because of a change in the litigant's financial condition, the litigant may be responsible for repaying the Court any sums received as payment for costs as the Court deems just.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

No. C-\_\_\_\_\_

Plaintiff(s),

v.

**ORDER REFERRING LITIGANT TO  
FEDERAL PRO BONO PROJECT AND  
STAYING PROCEEDINGS PENDING  
APPOINTMENT OF COUNSEL**

Defendant(s).

\_\_\_\_\_ /

The \_\_\_\_\_ having requested and being in need of counsel to assist him/her in this matter and good and just cause appearing,

IT IS HEREBY ORDERED that \_\_\_\_\_ shall be referred to the Federal Pro Bono Project in the manner set forth below:

1. The clerk shall forward to the Volunteer Legal Services Program of the Bar Association of San Francisco ("BASF")/Santa Clara County Bar Association ("SCCBA") one (1) copy of the court file with a notice of referral of the case pursuant to the guidelines of the Federal Pro Bono Project for referral to a volunteer attorney.
2. Upon being notified by the BASF/SCCBA that an attorney has been located to represent the \_\_\_\_\_, that attorney shall be appointed as counsel for \_\_\_\_\_ in this matter until further order of the Court.
3. All proceedings in this action are hereby stayed until four weeks from the date an attorney is appointed to represent \_\_\_\_\_ in this action.

IT IS SO ORDERED.

Dated:

\_\_\_\_\_  
United States District/Magistrate Judge

FEDERAL PRO BONO PROJECT  
REFERRAL FORM

TO:

Jennifer Greengold  
(415) 626-6917; fax (415)626-6997  
Supervising Attorney  
Federal Legal Assistance & Pro Bono Project  
Volunteer Legal Services Program of BASF  
450 Golden Gate Ave, 15<sup>th</sup> Floor, rm 15-2796  
San Francisco, CA 94102  
jgreengold@sfbar.org

Christine A. Burdick  
(408) 287-2557; fax (418)850-1506  
Executive Director  
Santa Clara County Bar Association  
4 North 2nd Street, #400  
San Jose, CA 95113  
ChrisB@sccba.com

REFERRING JUDGE:

DATE:

RE: Referral of Indigent Litigant for Appointment of Counsel

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Please be advised that the following pro se litigant is being referred to the Bar Association of San Francisco Volunteer Legal Services Program/Santa Clara County Bar Association for appointment of a volunteer attorney through the Federal Pro Bono Project. The litigant has been given a copy of the instruction sheet for litigants. One copy of the court file is enclosed, or will be forwarded as soon as it is available.

Name:

Address:

Telephone #:

Message Telephone #:

Case Name:

Status of Case:

Federal Pro Bono Project  
*of the*  
United States District Court  
Northern District of California  
*with*  
The Bar Association of San Francisco  
Volunteer Legal Services Program  
*and*  
Santa Clara County Bar Association

Instruction Sheet for Litigant

TO (Name of litigant):

FROM (Referring judge):

DATE:

RE: Referral to the Federal Pro Bono Project

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You are being referred to the Federal Pro Bono Project of the Bar Association of San Francisco Volunteer Legal Services Program ("BASF") or Santa Clara County Bar Association ("SCCBA"). This organization will attempt to locate a volunteer attorney willing to be appointed to represent you in your employment discrimination case. **There is no guarantee that the Project will be able to locate an attorney to represent you.** To remain eligible for this Project, it is important that you follow all of the instructions below:

1. During the time the Project is attempting to find an attorney for your case, you must notify the Project staff immediately if you change your address or telephone number. Write to:  

Jennifer Greengold (415) 626-6917; fax (415)626-6997 Supervising Attorney Federal Legal Assistance & Pro Bono Project Volunteer Legal Services Program of BASF 450 Golden Gate Ave, 15th Floor, rm 15-2796 San Francisco, CA 94102 jgreengold@sfbar.org	Christine A. Burdick (408) 287-2557 Executive Director Santa Clara County Bar Association 4 North 2nd Street, #400 San Jose, CA 95113 ChrisB@sccba.com
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2. During this time, one or more attorneys may want to speak with you in person or over the telephone to help them decide whether they will be able to represent you. This may require that you meet with the attorney or attorneys in their offices. You should be prepared to attend such meetings. The attorney or attorneys may also want to speak with potential witnesses.
3. You will be contacted by the Project staff if a volunteer attorney agrees to represent you. This process may take as long as several months. If you are referred to a volunteer attorney, you will be expected to cooperate fully with that attorney.
4. If you are referred to a volunteer attorney, do not miss any appointments with the attorney, except in an emergency. If you miss an appointment or fail to cooperate with your attorney, you may no longer be entitled to receive free legal services through the BASF/SCCBA.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

No. C-\_\_\_\_\_

Plaintiff(s),

**ORDER APPOINTING COUNSEL**

v.

Defendant(s).

\_\_\_\_\_ /

Because the \_\_\_\_\_ has requested and is in need of counsel to assist him/her in this matter and a volunteer attorney is willing to be appointed to undertake this representation at the request of the Federal Pro Bono Project, \_\_\_\_\_  
\_\_\_\_\_ is hereby appointed as counsel for \_\_\_\_\_  
\_\_\_\_\_ in this matter.

IT IS SO ORDERED.

Dated:

\_\_\_\_\_  
United States District/Magistrate Judge