

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**APPROVED BY BOARD OF JUDGES**

**ATTORNEY PANEL FOR *Pro Se* PLAINTIFFS IN EMPLOYMENT CASES  
PROGRAM DESCRIPTION**

**Effective as of November 9, 2015**

Under the law, the federal district court may appoint an attorney to represent a plaintiff in an employment case.<sup>1</sup> The Court strongly values and endorses this effort to provide counsel in appropriate cases for persons unable to obtain counsel themselves and who assert that their civil rights have been violated. Accordingly, the United States District Court for the Eastern District of Pennsylvania has established the Attorney Panel for *Pro Se* Plaintiffs in Employment Cases, which is comprised of volunteer attorneys who have agreed to represent *pro se* plaintiffs in employment actions by court appointment (the “Panel”).<sup>2</sup> The Court and the bar shall join together to make this program successful.

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<sup>1</sup> Title VII of the Civil Rights Act of 1964, § 706(f)(1)(B), 42 U.S.C. § 2000e-(f)(1)(B), provides -

Upon application by the complainant in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, cost, or security.

The Panel program also covers cases brought under the Age Discrimination Employment Act (ADEA), and the Americans with Disabilities Act, the Rehabilitation Act, and state claims which can be properly appended to federal employment claims.

<sup>2</sup> From time to time the Chief Judge of the Eastern District will designate one or more members of the Panel to be Program Coordinator(s). The Program Coordinator(s) will supervise the recruitment of attorneys for the Panel and will work with the Court and the Clerk's Office to implement the program.

The Attorney Panel for *Pro Se* Plaintiffs in Employment Cases shall operate as follows:

1. The Court has created an extranet for employment cases referred to the Panel by the Judges of this Court. The extranet will be accessible to Panel members through a password provided by the Court, and will be supported by an assigned Panel Administrator. The Panel Administrator will prepare a brief description of each case to be posted on the extranet. The extranet system will issue an email notice to all Panel attorneys each time a new employment case is posted on the extranet. The extranet will contain a link to both the case summary and a copy of the case docket, as well as instructions for accepting appointment of the case.

2. Upon the filing of a *pro se* complaint, a plaintiff in an employment action will be given this program description, and a form application for appointment of counsel. *Pro se* plaintiffs are advised that a request for appointed counsel does not guarantee that counsel will ultimately be appointed. The appointment of counsel is left to the sole discretion of the assigned Judge. The appointment of counsel may also be dependent upon the availability of an attorney from the Panel who is willing to undertake the requested representation and the plaintiff's own compliance with the procedures set forth in this description, including cooperation with the attorney(s) to whom he/she is referred. Representation by a Panel attorney does not necessarily mean that the plaintiff will not be required to pay a contingent fee for the representation, and/or advance litigation costs.

3. If the assigned Judge determines that the case is appropriate for appointment of counsel, that Judge will direct, through written Order, the Clerk of Court to place the case on the extranet for selection by a Panel attorney. Pursuant to a Standing Order issued by the Chief Judge, unless otherwise ordered by the assigned Judge, the Clerk's Office shall place the case in suspense immediately upon entry of the Order from the assigned Judge placing the case on the

extranet, to preserve the status of the case while Panel attorneys review it for possible acceptance. The suspense order will be for not less than 90 days, but may be extended at the discretion of the assigned Judge.

4. Panel attorneys are responsible for regularly reviewing the extranet postings to decide whether to accept a given case. A Panel attorney accepts a case by following instructions provided on the extranet, and shall not contact a *pro se* plaintiff prior to accepting a case on the extranet. The following procedures apply once an attorney accepts a case on the extranet:

a. The case is removed from the extranet.

b. The attorney has 14 days in which to more closely examine the case and confer with the plaintiff to determine whether to accept an Order of Appointment.

c. Before the attorney accepts an Order of Appointment, the attorney and plaintiff shall enter into a written representation agreement which shall include any agreement as to fees and costs, and the attorney shall conform to all applicable professional and ethical codes with respect to such agreements. Counsel are encouraged to take into account the *pro bono* spirit of this program in entering a representation agreement.<sup>3</sup>

d. If the attorney accepts an Order of Appointment, he/she shall notify the plaintiff and the assigned Judge within the 14-day period, and the assigned Judge will enter an Order appointing the attorney to represent the plaintiff. If the case was placed in suspense, the Clerk's Office shall remove the case from suspense immediately upon the entry of the appointment order, pursuant to a Standing Order issued by the Chief Judge. The appointed

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<sup>3</sup> In cases in which the Panel attorney has not earned a fee and has not recovered his/her costs, funding for litigation costs up to a maximum of \$4000.00 per case is available through the Public Interest Civil Litigation Fund (PICLF). (See extranet – Public Interest Civil Litigation Fund Guidelines.) Court stenographers and others, including experts, are encouraged to charge reduced *pro bono* rates as they might for other indigent litigants. Counsel may, but will not be required, to advance costs.

attorney shall promptly file an entry of appearance, and any attorney in the appointed attorney's firm may also file an entry of appearance as they would in any case.

e. If the attorney declines to accept an Order of Appointment, he/she shall notify the plaintiff and the Panel Administrator within the 14-day period, in which event the case will be returned to the extranet for review by other Panel attorneys.

f. In the event counsel fails to either accept or decline an Order of Appointment within the 14-day period, the case will be returned to the extranet for review by other Panel Attorneys.

g. If the case is still on the extranet at the end of suspense period referred to in para. 3 (presumptive 90 days plus any extension) without an Order of Appointment, pursuant to a Standing Order issued by the Chief Judge, the Clerk's Office shall remove the case from suspense. The Panel Administrator will remove the case from the extranet unless otherwise directed by the assigned Judge.

5. Counsel are responsible for conducting a conflicts check before accepting appointment, and shall exert every reasonable effort to accept a case for an Order of Appointment. Counsel shall provide competent and ethical representation to the same extent that they would for any other client, and in accordance with all applicable professional duties and ethical obligations, until the case is concluded. The bar recognizes that such commitment is essential to the effective operation of the Panel.

6. Pursuant to a Standing Order issued by the Chief Judge, unless otherwise ordered by the assigned Judge, within 7 days of the appointment Order, the Clerk's Office shall refer the case for early mediation before a designated mediation Judge (other than the assigned Judge).<sup>4</sup>

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<sup>4</sup> From time to time the Chief Judge will appoint one or more judges and/or magistrate judges to provide early mediation in these cases.

Such mediation shall take place within 21 days of the appointment, which period may be extended in the discretion of the mediation Judge. If the case does not resolve at early mediation, the assigned Judge will put the case on a schedule in the normal course.

7. The Court recognizes that these are public interest representations and, to the extent practicable, will consider this factor in case management and scheduling. If, after having been appointed the Panel attorney finds it necessary to ask for leave to withdraw, the Court will give due consideration to the public service nature of the representation.

8. Any attorney or law firm with a question or concern about the operation of the Panel may direct it to one of the Panel Coordinator(s), who, in the event they are unable to resolve the matter, may discuss it with the Court's Public Interest Litigation Committee.

9. Panel attorneys who specialize in the field will be available to confer with other panel members on particular issues. Should counsel require such assistance, they should contact the Panel Coordinator(s) for an appropriate referral.

10. The Panel Coordinator(s) will make reasonable efforts to increase and maintain the number of attorneys and law firms participating in the Panel. The Court will also encourage bar associations in all counties that make up the Eastern District of Pennsylvania to make such efforts.