

*PRO SE OFFICE*  
**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF NEW YORK**  
DANIEL PATRICK MOYNIHAN UNITED STATES COURTHOUSE  
500 PEARL STREET, ROOM 230  
NEW YORK, NEW YORK 10007

J. MICHAEL McMAHON  
CLERK OF COURT

**INFORMATION REGARDING *PRO BONO* (VOLUNTEER) COUNSEL**

The Sixth Amendment of the United States Constitution guarantees free legal representation only to persons who have been charged with a crime. The Sixth Amendment guarantee, however, does not extend to persons involved in civil cases. If you are unable to obtain a lawyer to represent you in a civil case pending in federal district court, you may submit an application to the Court to request that a volunteer lawyer represent you for free. Lawyers who volunteer to represent *pro se* litigants without charging fees are called *pro bono* lawyers. *Pro bono* means “for the public good.” The *Pro Se* Office is responsible for managing the group of lawyers who volunteer to represent *pro se* litigants in the Southern District of New York for free. This group is known as the *Pro Bono* Panel.

When to Apply for *Pro Bono* Counsel

A *pro se* litigant may ask the Court for *pro bono* counsel at any time. The application for counsel may be submitted with the initial complaint at the beginning of the case, immediately before trial or anytime in between. Applications submitted with the initial complaint, however, may be denied without prejudice to filing a new application once the case proceeds a little further – for instance, after the defendants are served with the summons and complaint and have either answered the complaint or moved to dismiss the action.

How to Apply for *Pro Bono* Counsel

To apply for *pro bono* counsel, you must complete an Application for the Court to Request Counsel. The application has two parts: the Application for the Court to Request Counsel and the supporting Request to Proceed *In Forma Pauperis*. Both forms must be completed and filed with the Court, even if you have already submitted a Request to Proceed *In Forma Pauperis* to waive the filing fee for your case or you have paid the filing fee. If your defendants have already been served with the summons and complaint, you must send them a copy of your Application for the Court to Request Counsel and the supporting Request to Proceed *In Forma Pauperis* before filing your papers with an accompanying Affirmation of Service with the *Pro Se* Office. If you are a defendant, you must mail a copy of your papers to the plaintiff or his/her lawyer before filing your papers with an accompanying Affirmation of Service with the *Pro Se* Office.

Inmates who have filed a Petition for a Writ of *Habeas Corpus* and who seek free

counsel should complete and file the Application for Appointment of Counsel pursuant to 18 U.S.C. § 3006A(g) (*habeas corpus* petition). In such cases, the Criminal Justice Act permits the Court to appoint free counsel for indigent *habeas corpus* petitioners. Such appointments are made from the Criminal Justice Act Panel of this Court, not the *Pro Bono* Panel.

#### The Decision to Grant or Deny Counsel

The decision to grant or deny counsel is within the judge's discretion. Factors that the judge may consider when reviewing an application are the complexity of the issues and facts in the case, the type and extent of discovery involved in the case, the complexity of the motions filed in the case, the ability of the litigant to represent himself/herself, the education of the litigant, the ability for the litigant to communicate in English, and the efforts that the litigant has made to obtain a lawyer. If the judge denies your application without prejudice to renewal, you may file a new Application for the Court to Request Counsel at a later date. You should read the judge's decision carefully as it may provide some guidance as to why the application was denied and what circumstances must change before a new application may be granted. If your application is granted you should notify the *Pro Se* Office immediately.

#### What happens when an Application for the Court to Request Counsel is granted?

If the Court grants your Application, you should contact the *Pro Se* Office immediately. The *Pro Se* Office will then attempt to find a lawyer to volunteer to represent you. The *Pro Se* Office cannot assign a case to a lawyer or require a lawyer to take a case. *Pro bono* lawyers take cases on a strictly volunteer basis once an Application is granted. Therefore, even when an Application is granted, there is no guarantee that a lawyer will take your case.

The process for finding a *pro bono* lawyer is often lengthy. Lawyers reviewing your case may choose to contact you to interview you or to discuss your case or they may choose to accept your case without first communicating with you. If a lawyer decides to take your case, you will be notified by mail and the lawyer will file a Notice of Appearance with the Court. The lawyer may ask you to sign a retaining agreement which will set forth the terms and limits of his/her representation. Unless and until a lawyer volunteers to represent you or if no lawyer volunteers to represent you, you are responsible for handling your litigation. If you fail to prosecute your case while the *Pro Se* Office is attempting to locate a lawyer for you, the judge may dismiss your case.

You have the right to withdraw your Application for the Court to Request Counsel and to continue to proceed *pro se* at any time. If you choose to do so, you must make the request to the judge by writing a letter to Court. Remember to send a copy of the letter to the other parties first and attach a completed Affirmation of Service to the letter you send to the *Pro*

*Se* Office. Upon receipt, the *Pro Se* Office will forward the letter to the judge. If the judge grants your request, your case will be removed from consideration by the *Pro Bono* Panel and you will proceed *pro se*.

#### Can *pro bono* lawyers get attorneys fees and costs?

Some laws permit a lawyer to claim a fee from the defendants if s/he wins the case or gets a settlement in your favor. Some of these laws (such as those relating to social security disability cases) allow the lawyer to take fees from the money s/he gets for you. The lawyer may also ask you to pay or to promise to pay for the expenses which s/he must advance to bring a lawsuit. To ensure that both you and your *pro bono* lawyer are clear as to who is responsible for costs and fees, you should ask your lawyer at the time s/he volunteers to take your case, to tell you in writing if s/he intends to ask for a fee or to ask you to pay for expenses.

#### Who is on the Court's *Pro Bono* Panel and why do the lawyers work for free?

The Court's *Pro Bono* Panel is made up of lawyers primarily from large and small law firms. The Panel also includes solo practitioners and not-for-profit organizations, as well as a few local law school clinics, which are supervised by lawyers with extensive federal court experience. The *Pro Se* Office is not authorized to provide the identity of any member of the Panel or any information about the lawyers reviewing your case.

Under the ethical rules that lawyers must follow, lawyers are encouraged to perform free legal services for those who are unable to afford it. Lawyers are not required to do *pro bono* work, but most lawyers see a great need for *pro bono* work and take their responsibility seriously. Many bar associations and law firms now encourage *pro bono* work by setting policies and providing support to lawyers who take *pro bono* cases.

#### Important Reminders

Your answers to the questions on the Application for the Court to Request Counsel and the supporting Request to Proceed *In Forma Pauperis* must be truthful. There may be penalties for making false statements, including dismissal of your case.

You are responsible for handling your case unless and until a lawyer volunteers to represent you. You must continue to proceed *pro se* during the time your application is pending before the Court and, if your application is granted, during the time the *Pro Se* Office is attempting to locate a *pro bono* lawyer for you. For instance, you must have the defendants served with the summons and complaint and you must follow any schedules or appear at any court proceedings during this time.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

\_\_\_\_\_

(In the space above enter the full name(s) of the plaintiff(s)/petitioner(s).)

\_\_\_ Civ. \_\_\_ ( ) ( )

-against-

**APPLICATION FOR THE COURT  
TO REQUEST COUNSEL**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(In the space above enter the full name(s) of the defendant(s)/respondent(s).)

1. Name of applicant. \_\_\_\_\_
2. Explain why you feel you need a lawyer in this case. (Use additional paper if necessary)  
\_\_\_\_\_  
\_\_\_\_\_
3. Explain what steps you have taken to find an attorney and with what results. (Use additional paper if necessary)  
\_\_\_\_\_  
\_\_\_\_\_
4. If you need a lawyer who speaks in a language other than English, state what language you speak:  
\_\_\_\_\_
5. I understand that if a lawyer volunteers to represent me and my lawyer learns that I can afford to pay for a lawyer, the lawyer may give this information to the Court.
6. I understand that if my answers on my Request to Proceed *In Forma Pauperis* are false, my case may be dismissed.
7. I declare under penalty of perjury that the foregoing is true and correct.

Dated: \_\_\_\_\_

\_\_\_\_\_  
*Signature*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

\_\_\_\_\_  
*(In the space above enter the full name(s) of the plaintiff(s)/petitioner(s).)*

-against-

\_\_\_\_\_  
*(In the space above enter the full name(s) of the defendant(s)/respondent(s).)*

\_\_\_ Civ. \_\_\_ ( ) ( )

**REQUEST TO PROCEED  
IN FORMA PAUPERIS  
FOR APPLICATION FOR THE  
COURT TO REQUEST COUNSEL**

I, \_\_\_\_\_, *(print or type your name)* am the plaintiff/petitioner in the above entitled case and I hereby request to proceed *in forma pauperis* and without being required to prepay fees or costs or give security. I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor, and that I believe I am entitled to redress.

1. If you are presently employed:  
a) give the name and address of your employer  
b) state the amount of your earnings per month

\_\_\_\_\_  
\_\_\_\_\_

2. If you are NOT PRESENTLY EMPLOYED:  
a) state the date of start and termination of your last employment  
b) state your earnings per month  
**YOU MUST ANSWER THIS QUESTION EVEN IF YOU ARE INCARCERATED.**

\_\_\_\_\_

3. Have you received, within the past twelve months, any money from any source? If so, name the source and the amount of money you received.

- \_\_\_\_\_
- a) Are you receiving any public benefits?       No.       Yes, \$ \_\_\_\_\_.
- b) Do you receive any income from any other source?       No.       Yes, \$ \_\_\_\_\_.

4. Do you have any money, including any money in a checking or savings account? If so, how much?  
 No.       Yes, \$ \_\_\_\_\_.

5. Do you own any apartment, house, or building, stock, bonds, notes, automobiles or other property? If the answer is yes, describe the property and state its approximate value.  
 No.       Yes, \_\_\_\_\_.

6. Do you pay for rent or for a mortgage? If so, how much each month?  
 No.       Yes, \$ \_\_\_\_\_.

7. List the person(s) that you pay money to support and the amount you pay each month.  
\_\_\_\_\_  
\_\_\_\_\_

8. State any special financial circumstances which the Court should consider.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I understand that the Court shall dismiss this case if I give a false answer to any questions in this declaration.

**I declare under penalty of perjury that the foregoing is true and correct.**

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
*Signature*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

\_\_\_\_\_  
\_\_\_\_\_  
*(In the space above enter the full name(s) of the plaintiff(s)/petitioner(s).)*

- against -

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
*(In the space above enter the full name(s) of the defendant(s)/respondent(s).)*

\_\_\_ Civ. \_\_\_ ( ) ( )

**AFFIRMATION OF SERVICE**

I, \_\_\_\_\_, declare under penalty of perjury that I have  
*(name)*

served a copy of the attached \_\_\_\_\_  
*(document you are serving)*

upon \_\_\_\_\_ whose address is \_\_\_\_\_  
*(name of person served)*

\_\_\_\_\_ *(where you served document)*

by \_\_\_\_\_  
*(how you served document: For example - personal delivery, mail, overnight express, etc.)*

Dated: \_\_\_\_\_, \_\_\_\_\_  
*(town/city) (state)*

\_\_\_\_\_, 20\_\_\_\_  
*(month) (day) (year)*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Address*

\_\_\_\_\_  
*City, State*

\_\_\_\_\_  
*Zip Code*

\_\_\_\_\_  
*Telephone Number*