

*Faculty of Federal Advocates
P.O. Box 12025
Denver, CO 80212-0025*

June 22, 2012

The Honorable Wiley Y. Daniel
Chief Judge
United States District Court
District of Colorado
Alfred A. Arraj United States Courthouse
901 Nineteenth Street, Room A1038
Denver, CO 80294

Greg Langham
Clerk of United States District Court
District of Colorado
Alfred A. Arraj United States Courthouse
901 Nineteenth Street, Room A105
Denver, CO 80294

Re: New Federal Pro Bono Project

Dear Chief Judge Daniel and Mr. Langham:

I am writing to confirm the support of the Faculty of Federal Advocates (FFA) for the new proposed Federal Civil Pro Bono Program. The FFA is excited about this new proposed program and fully committed to supporting the Civil Pro Bono Program by providing education programs, recruiting volunteers and assisting with logistics such as the management of funds and cost reimbursement. Pursuant to your request, I am also including information regarding the FFA's historical role with the Counsel/Co-Counsel program and the proposed role for the FFA with the new Federal Civil Pro Bono Program.

The FFA was formed in 1997, after Chief Judge Matsch appointed a task force to develop a plan for a federal court practice organization to address substantive and procedural issues unique to federal court. The FFA is dedicated to improving the quality of legal practice in the United States District Court for the District of Colorado, and committed to enhancing advocacy skills, professionalism and the integrity of the federal judicial system. The FFA is a 501(c)(3) tax-exempt charitable organization.

For many years, the FFA has operated the Counsel/Co-Counsel Program as a way to alleviate the pro se cases in the federal district court as mandated by Congress in the Civil Justice Reform Act. The program was started in 1997 by Judge Phil Figa when he served as CBA President. The Faculty took over the program soon after and continues to provide representation in civil cases

that the Judges have determined are sufficiently complicated to warrant the appointment of counsel.

Over the years, the FFA has received grants from the District of Colorado and other sources to help fund the Counsel/Co-Counsel Program. The FFA envisions that the Counsel/Co-Counsel program would be folded into and superseded by the new Civil Pro Bono Program.

The FFA keeps our funds for this program in a segregated bank account dedicated to this program. The funds are used for three purposes:

- Malpractice insurance (To cover the FFA and attorneys who ask for coverage while they are engaged in representation)
- Costs for training and education programs (Primarily duplicating materials and refreshments)
- Grants to participating attorneys for reimbursement of out of pocket costs incurred in conjunction with the cases.

With regard to the cost reimbursement, the FFA's Pro Bono committee reviews and approves all requests for reimbursement. The FFA has a limit of \$3000 per case and provides written guidelines stating what types of expenses are eligible for reimbursement. This limit has allowed us to distribute the limited available funds in an equitable manner. Our experience is that most cases have actual out of pocket costs that well exceed \$3000, and the expenses over the limit are paid by the volunteer attorneys and their firms. I've attached a copy of the current guidelines used for the FFA Counsel/Co-Counsel program. From 2007-2011, the FFA made grants totaling \$113,950 to reimburse volunteer lawyers for out of pocket costs associated with their cases.

The FFA has offered to serve in a similar capacity for the new Civil Pro Bono Program. We understand that the FFA would receive from the court grant money stemming from various sources generated from attorney admission fees and would use it exclusively to promote and support the Federal Civil Pro Bono Program. Based on our experience with the Counsel/Co-Counsel Program and understanding of our role, we anticipate the following types of expenditures:

- **Malpractice Insurance:** Over the years, we've learned that many attorneys do not have malpractice insurance that covers pro bono cases. The FFA would get a policy that would cover the FFA and any volunteer attorneys who asked to be listed on the policy. We would estimate that this would cost at least \$1000 per year.
- **Cost Reimbursement for Individual Attorneys or Firms:** We propose to develop guidelines for reimbursement and to have a limit for each case. These guidelines would be similar to the guidelines we've used with the Counsel/Co-Counsel program. Our aim is to reimburse actual out of pocket expenses such as transcripts and expert fees – not anything that would properly be considered part of an attorney's overhead such as secretarial time. The final cost reimbursement guidelines would be approved by the FFA Board. These cost reimbursements would be handled on a retrospective basis. Requests would be required to include documentation substantiating the actual expenses incurred.

Individual requests would be reviewed by the FFA's pro bono committee in the first instance and then the grant approved by the FFA Board. We propose a limit of at least \$3,000 per year. Based on the estimated number of cases that may be placed by this program, annual reimbursement expenses could exceed \$60,000 per year. (Twenty requests for reimbursement of \$3000 per case). The FFA would have discretion to decline requests if at some point there are not funds available in the FFA's Civil Pro Bono Program reimbursement account.

- **Grants to Legal Clinics:** We understand that University of Denver College of Law and the University of Colorado School of Law may participate as "law clinics" and agree to take a certain number of cases in the Civil Pro Bono Program. We understand that the FFA would serve as the grantor for the law school clinics. We propose that these grants be made prospectively each year. Each clinic would submit a proposal to the FFA, similar to what University of Denver has provided to the Court in the past, and the FFA Board would approve an annual grant to the clinic. Based on our understanding of grants in the past, we anticipate that these grants would be approximately \$10,000 per year per clinic. The law schools or other clinics would be required to submit annual reports accounting for the use of the grant funds.
- **Miscellaneous expenses:** We anticipate expenses of approximately \$2000 per year in conjunction with training programs, volunteer recruiting events, speakers, and other activities that we would undertake to support the Civil Pro Bono Program.

The total annual expenses are likely to exceed \$75,000, depending on the number of cases that are assigned and the requests that the FFA receives for reimbursement. We anticipate that the annual expenditures would likely exceed the projected \$30,000 in annual admission fees, so the seed money will be used to help with the overage. The FFA would also seek other grant money, but our experience is that funds for these much-needed programs are scarce.

The FFA takes its role seriously and would provide a comprehensive annual report and accounting of all funds used and distributed in this program that would track the expenditures for each case according to the FFA reimbursement guidelines.

We hope that this information is helpful. Please let us know if you have questions or would like more detail on any of these issues.

Thank you very much.

Very truly yours,

A handwritten signature in black ink that reads "Natalie Hanlon-Leh". The signature is written in a cursive, flowing style.

Natalie Hanlon-Leh
President

Pro Bono Reimbursement Criteria

Costs that are reimbursable:

1. Photocopies: FFA will reimburse copy costs at \$.07 per page

(That is cost that Blue Moose does copies for all customers)
2. Long distance calls FFA will reimburse for long distance calls.
3. Investigation FFA will reimburse investigation costs at \$75/hour
4. Experts FFA will reimburse costs and fees for experts that are retained at a reasonable rate, with understanding that any cumulative costs that exceed \$3000 for a case must be pre-approved.
5. Depositions FFA will cover the costs of depositions, **if** participants schedule depositions through this service. Attached are the CCRA Pro Bono guidelines.

Linda Koenig
Hunter Geist
(303) 832-5966
(303) 484-0571 (cell)
6. Transcripts FFA will cover the cost of necessary transcripts.
7. Travel FFA will only cover out-of-state travel costs upon pre-approval and encourages all participants to conduct depositions and attend hearings by telephone whenever possible.

Costs that are not reimbursable:

1. Faxes Cost of sending local faxes are not reimbursable. The cost of long distance faxes are recoverable to the extent the charges are for actual long distance phone time.
2. Secretarial Costs Secretarial costs are not reimbursable.
3. Legal Research The FFA will not reimburse for computerized legal research to the extent the participant pays a flat fee for monthly legal research access.