

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

May 17 11 25 AM '88

CLERK, U.S. DIST. COURT
EASTERN DIST. OF CALIF.
AT SACRAMENTO

IN RE:

ADOPTION OF PROCEDURES FOR
ESTABLISHMENT OF A SECTION 1983
PANEL IN SACRAMENTO

BY [Signature]
GENERAL ORDER NO. DEPT 80

The attached procedure for the appointment of counsel in section 1983 cases (Title 42 U.S.C. § 1983) is hereby adopted by the Court.

DATED: May 17, 1988

[Signature]
LAWRENCE K. KARLTON, Chief Judge
U.S. District Court

[Signature]
MILTON L. SCHWARTZ, Judge
U.S. District Court

[Signature]
EDWARD DEAN PRICE, Judge
U.S. District Court

[Signature]
RAUL A. RAMIREZ, Judge
U.S. District Court

[Signature]
ROBERT E. COYLE, Judge
U.S. District Court

[Signature]
EDWARD J. GARCIA, Judge
U.S. District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

The following procedure for the appointment of counsel in section 1983 (Title 42 U.S.C. § 1983) cases is hereby adopted by the court.

1. The court shall establish and maintain with the Clerk a panel of attorneys for appointment in section 1983 cases. This order shall be publicized in a manner calculated to insure the widest possible geographical representation of attorneys in the Eastern District. Counsel shall be compensated, as described below, for reasonable costs expended.

Unless subsequent experience dictates otherwise, the panel shall be open to those members of the bar of this court willing to serve. Counsel shall be appointed by a magistrate or a district court judge on a rotating basis with due regard, however, for the proximity of counsel's office to the residence of the client and the court in which the action is pending.

2. Regulating cost expenditures and reimbursements, at least at the outset, shall be handled on a case by case basis with each expenditure pre-approved. A simple form for advance approval of expenditure shall be submitted ex parte for approval by the magistrate or the district court. This form will set out the nature of the contemplated expenditure, the reason for it, the anticipated amount and a summary of previous costs. A recommended form titled, "Request for Authority to

Incur Costs (Appointed Counsel) and Request for Payment" is attached.

Counsel will be advised that the costs of depositions will be borne by the Certified Shorthand Reporters' fund pursuant to California Business & Professions Code § 8030.2 et. seq. In the event that costs become excessive in a given case, the judge or magistrate may either disapprove a contemplated expenditure, schedule a discovery or status conference or take such other action as is deemed appropriate.

3. Due to the responsibilities placed upon counsel in civil matters, e.g. Rule 11 of the Federal Rules of Civil Procedure, it is important that appointed counsel have a procedure to facilitate withdrawal when necessary. It is deemed advisable that this procedure allow for a withdrawal motion to be heard in camera by a judicial officer other than the trial judge so as to minimize prejudice to the plaintiff. Accordingly, rather than the procedure provided by Local Rule 182(b), when counsel appointed by the court pursuant to this rule desires to withdraw, the motion to withdraw shall be referred to another district judge or to a magistrate. The motion shall then be heard ex parte and in camera.

4. It shall be the responsibility of counsel for plaintiff to reimburse the Clerk of the Court for all costs advanced pursuant to this procedure immediately upon settlement or other successful resolution of the case. Such reimbursement shall be made prior to any disbursement to counsel, plaintiff or any other person.

5. A model form of order appointing counsel and a model form for reimbursement of costs are appended to this order.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

FINDINGS AND ORDER
APPOINTING COUNSEL

Upon review of plaintiff's motion for appointment of counsel and the documents on file and good cause appearing therefor, the court finds as follows:

1. Plaintiff has made substantial efforts to obtain legal representation and has been unable to do so. Further efforts to obtain the services of counsel without order of this court would be futile;

2. Plaintiff's income is 125 percent or less of the current poverty threshold established by the Office of Management and Budget of the United States and is otherwise without resources to obtain counsel;

3. This case is of a type that attorneys in this district ordinarily do not accept without prepayment of a fee;

4. This case is not a fee generating case within the meaning of California Business and Professions Code § 8030.4(g);

5. This case has sufficient merit to warrant appointment pursuant to General Order No. 230.

Therefore, this court orders as follows:

1. _____ is appointed as attorney for plaintiff pursuant to General Order No. 230 ;

2. The Clerk of the Court is directed to send counsel a copy of the file in this matter; and

3. Counsel shall submit all deposition transcript costs for payment pursuant to section 8030.6 of the California Business and Professions Code. All other contemplated costs shall be handled as described in General Order No. 230 ;

3. This case is set for status conference on _____, 19____, at _____ .M.

DATED: _____

United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

Plaintiff(s)

No.

vs.

Defendants.

REQUEST FOR AUTHORITY
TO INCUR COSTS
(APPOINTED COUNSEL) AND
REQUEST FOR PAYMENT

_____ /

Complete part and return it to the court (with two copies) for approval prior to incurring the cost for which reimbursement is requested.

PART I

I, _____, attorney for plaintiff(s),
declare as follows:

I was appointed to represent plaintiff(s) in this action
on _____, by the Honorable _____,
United States District Judge/Magistrate. I believe that the
following course of action is reasonable necessary to the
prosecution of this action: _____

(e.g., deposition of _____, defendant herein).

I have made reasonable inquiry and believe that the cost
of this course of action will not exceed \$ _____.

I therefore request that this court authorize the
expenditure in an amount not to exceed that stated above for
the completion of this contemplated course of action.

The following payments of costs have been heretofore approved in this matter:

Amount Approved	Purpose	Amount Paid
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

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

Signed this _____ day of _____, 19____, in _____, California.

Attorney for Plaintiff(s)

The above expenditure is

- _____ Approved.
- _____ Disapproved.

Or,

_____ Good cause appearing therefor, this matter is set for discovery conference, pursuant to Rule _____, on _____, at _____, ____M. in Courtroom Number ____.

DATED: _____.

UNITED STATES DISTRICT JUDGE/MAGISTRATE

Part II

After securing court approval and after incurring the approved cost, complete this part of the form and return it to the clerk of the court with two copies.

To the clerk of the above-entitled court:

I declare under penalty of perjury that I have completed the action contemplated above, that I have incurred actual cost in the amount of \$____, and that I have paid that cost.

I therefore request reimbursement of this cost. I understand and agree that this cost will be reimbursed out of any recovery or settlement resulting from this action.

Signed this ____ day of _____, 19____, at _____, California.

Attorney for Plaintiff(s)