

# PRO BONO PROGRAM FOR CIVIL APPEALS

SPONSORED AND ADMINISTERED BY  
THE PRO BONO COMMITTEES FOR  
THE STATE BAR OF TEXAS APPELLATE SECTION  
AND  
THE HOUSTON BAR ASSOCIATION APPELLATE SECTION  
IN THE  
COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS

**DECEMBER 2009**

## I. PRO BONO PROGRAM

The State Bar of Texas Appellate Section Pro Bono Committee and the Houston Bar Association's Appellate Practice Section Pro Bono Committee ("Pro Bono Committee") are conducting a Pro Bono Program to place a limited number of civil appeals with appellate counsel who will represent the appellant before the First Court. The goal of the program is to match clients who are financially unable to obtain legal representation with volunteer lawyers who agree to serve without expectation of compensation for their service.

The Pro Bono Program is administered completely by the Pro Bono Program Committee. The First Court of Appeals has no direct role in screening or selecting cases for inclusion in the Program.

If you lack the financial means to pay for an appellate attorney and indicate your desire to be included in the Pro Bono Program, as explained in this Pamphlet, you may be considered for participation in the

program. Even if you had paid counsel in the trial court, you can indicate your interest in seeking a pro bono attorney through this Program if you can no longer afford an attorney to represent you on appeal. **PLEASE NOTE:** There is no guarantee that the Pro Bono Committee will select your case for inclusion in the Program and that pro bono counsel can be found to represent you. Accordingly, you should not forego seeking other counsel to represent you in this proceeding.

### A. The Selection Process

The Docketing Statement is one of the first documents that you file when you start an appeal. If you would like for your case to be considered for inclusion in the Pro Bono Program, Section X of the First Court of Appeals' Docketing Statement includes a brief description of the Program along with a list of questions for you to answer. After you complete the Docketing Statement and indicate interest in your case being considered for possible inclusion in the

Program, a copy of your Docketing Statement will be forwarded to the Pro Bono Committee for screening. To assist the screening process, it is very important that you fill out the Docketing Statement carefully and completely so that the Pro Bono Committee will have as much information as possible when considering your appeal.

By filling out the request for consideration, you are agreeing that members of the Pro Bono Committee can contact the counsel of record in the trial court to ask for clarification of questions or issues as to your case. These conversations will be kept confidential to the extent permitted by law and used solely for purposes of the committee's selection process. You are also authorizing the Pro Bono Committee to transmit basic, publicly available, facts about your case via the Internet to its pool of volunteer lawyers in

an attempt to find an appellate lawyer to take your case.

The Pro Bono Committee screens and selects civil cases for inclusion in the Program based upon a number of discretionary criteria, including the financial means of the appellant. The committee uses 200% of U.S. Poverty Guidelines as a benchmark for determining whether an appellant qualifies for free legal services. These guidelines are published by the U.S. Department of Health and Human Services,<sup>1</sup> and the following chart sets forth the relevant numbers:

<b>Persons in Family or Household</b>	<b>200% of Federal Poverty Guidelines</b>
1	\$19,600.00
2	\$26,400.00
3	\$33,200.00
4	\$40,000.00
5	\$46,800.00
6	\$53,600.00
7	\$60,400.00
8	\$67,200.00

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<sup>1</sup> Federal Register, Vol. 71, No. 15, January 24, 2006, pp. 3848-3849, available at <http://aspe.hhs.gov/poverty/06poverty.shtml>.

If you have not already submitted an affidavit of indigence in the trial court, you may be asked to submit financial information as a condition of your participation in the Pro Bono Program. Although your ability to pay for legal counsel is not the only factor the Pro Bono Committee evaluates for participation in the Pro Bono Program, it is nonetheless a significant factor in the committee's decision-making process.

There are a number of other factors that the Pro Bono Committee considers in deciding whether to place an appeal in the Program, including the number of appeals currently in the program, the number of available volunteer lawyers, and the issues presented. Based upon a review of these and other factors, the Pro Bono Committee makes a recommendation for each case. If the Committee recommends that a case be included in the Program and a volunteer lawyer agrees to take the case, you will

receive a letter from the Committee within approximately 30-40 days of submitting your Docketing Statement notifying you of the match.

#### **B. The Attorneys**

The Pro Bono Committee has undertaken a substantial recruiting effort to enlist pro bono appellate lawyers willing to volunteer their time to take on cases selected for inclusion in the Program, as well as other specialty pro bono programs that the committee is sponsoring. We have inquired to find out the particular areas of interest and expertise of our volunteers so that we can be in a position to make appropriate matches between cases and volunteer attorneys according to their areas of interest, experience, and availability.

#### **C. Placement of Cases in the Program**

When an appeal is identified by the Pro Bono Committee as a candidate for the Program, the committee provides limited information regarding the case, such as the

nature of the case, issues on appeal, the status of appellate proceedings, and any impending deadlines, and solicits volunteers to take the case. Based upon the responses, the Pro Bono Committee will make an appropriate match.

If your case is chosen and counsel is located, the Committee will send you a letter advising you of the match, providing contact information for your pro bono attorney and advising you that you have 14 days to object if you do not want this attorney to represent you. If you do object, you need simply notify the Committee in writing. You need not indicate your reasons for objecting, but there is, of course, no guarantee that the Committee will be able to find replacement counsel.

Assuming you do not object to the volunteer attorney within 14 days of receiving the Committee's letter, that attorney will undertake further

representation of you in the appeal without charging legal fees.

#### **D. Representation in the Appeal**

If a volunteer lawyer is matched with your case through the Program, that lawyer will be your lawyer in handling the appeal on your behalf in the First Court of Appeals from that point forward. He or she will prepare the briefs and any necessary motions and present oral argument to the Court of Appeals if argument is ordered.

The scope of the representation is limited to the appeal in the First Court of Appeals and terminates once those proceedings are concluded—typically after the opinion issues, or the Court rules on any timely filed motions for rehearing. If you are unsuccessful in the First Court of Appeals, but desire to go forward to the Texas Supreme Court, you will need to make other arrangements for representation in that court, unless your Pro Bono counsel agrees in writing to undertake the further

representation. Please be advised that the Pro Bono Committee has a program with the Texas Supreme Court, although the procedures and requirements for that program necessarily differ from this one.

## **II. ADDITIONAL INFORMATION**

Additional information about the pro bono appellate programs is available at the State Bar of Texas Appellate Pro Bono website, <http://www.tex-app.org/probono.php> and the Houston Bar Association Appellate Section website, <http://www.hba.org/folder-sections/sec-apellate.htm>.

