

NOTICE TO THE BAR

APPELLATE DIVISION PRO BONO CIVIL PILOT PROGRAM

The Appellate Division is pleased to announce that the Supreme Court has authorized the establishment of a pilot program designed to permit greater access to the appellate courts by litigants unable to afford representation and who are unable to retain counsel or the assistance of legal services or entities established to represent low income individuals. Many pro se parties in civil litigation who qualify for indigency status are not eligible under existing rules and case law for the assignment of counsel or preparation of necessary transcripts at public expense, and often have great difficulty satisfying the prerequisites for an appeal and in formulating and presenting arguments or doing so with appropriate legal support. The new Appellate Division program will also foster the development of expertise by attorneys both in the appellate process and in the particular substantive areas in which they represent program clients.

The Appellate Division is excited about the program which is described in this notice and urges participation by any attorney and firm willing to make a difference to a party who might otherwise be unable to pursue an appeal or who would otherwise be required to proceed without representation in the appellate process.

LIMITED CASE TYPE

As a pilot, the program will be limited at first to: (1) Domestic violence; (2) Child custody and visitation; (3) Small claims and Special Civil Part cases, including landlord/tenant cases. That will provide a good sampling to assess the efficacy of the program. It is important to emphasize that the program will not create a right to counsel in civil appeals. We simply will be providing a mechanism to bring together eligible litigants and participating law firms.

APPLICATION FOR PARTICIPATION

Appellants who have been granted indigency status in matters in the aforesaid case types will be given information about the program. Those appellants wishing to be considered for representation through the program will so indicate by responding to that specific question on the form included in the informational material. Eligibility for the program will be limited to individuals who qualify for indigency status under R.

2:7-1. If an appellant receives counsel under the program, the program will be available to an indigent respondent in the same case.

ACCESS

Once the litigant is deemed eligible for the program, his or her notice of appeal and case information statement will be made available to participating law firms on a PIN restricted section of the judiciary's website. The only exception to this procedure involves domestic violence and child custody/visitation cases. Because of the confidential nature of these cases, law firms wishing to represent these litigants will be required to contact the Appellate Division Clerk's Office, who in turn will fax the notice of appeal and case information statement to the inquiring firm. Participating law firms will be responsible for contacting the litigant.

DOMESTIC VIOLENCE CASES

We anticipate that the large majority of the litigants seeking representation in domestic violence cases will be defendants who have been issued a final restraining order. In the event the plaintiff/respondent is not represented by counsel, and otherwise qualifies for representation under the program's guidelines, we will require another participating law firm to assume responsibility for plaintiff's representation. Given the public policy implications, the goal in domestic violence cases is to ensure that both sides have access to competent appellate counsel.

EXAMPLE OF HOW PROGRAM WOULD WORK

STEP ONE: Appellant files notice of appeal, case information statement and motion for indigency status.

STEP TWO: Motion for indigency status is granted.

STEP THREE: Appellant is provided with a form explaining the details of the program. Appellant must complete and return the form indicating whether he or she wishes to participate in the program. The form makes clear that the court does not guarantee that pro bono counsel will accept the case.

STEP FOUR: Appellant's notice of appeal and case information statement (assuming the case is not a domestic violence or child custody/visitation appeal) are posted on the PIN restricted section of the judiciary's website. If the case is either a

domestic violence or child custody/visitation, the Clerk's Office will follow the alternative procedure.

STEP FIVE: Law firm reviews information and contacts appellant directly. If appellant and the firm reach an agreement, the firm so notifies the Clerk of the Appellate Division and files a formal appearance as counsel.

STEP SIX: If appellant receives counsel under the program, any pro se respondent in the same case will be notified of the program and given the opportunity to file a motion for indigency status. If that motion is granted, the program will be available to respondent as well.

ACCOMMODATION

In order to avoid prejudice to the participating litigants, the time for filing briefs and transcripts would be automatically extended for fifteen days in all cases eligible for the program. If no law firm takes the case within this time period, the litigant would then be required to proceed pro se.

If a law firm accepts a case, the firm will be responsible for prosecuting the appeal, including paying for all necessary transcripts. As an accommodation for their willingness to participate, the time for filing briefs and transcripts will be automatically extended for an additional thirty days.

An orientation session will be scheduled to further explain the mechanics of the program and provide more specific information. If your firm is interested in participating in the program, please contact the Appellate Division Clerk, John Chacko, at (609) 292-4693 or (609) 292-6995.

We look forward to a successful program.

Edwin H. Stern
Presiding Judge for Administration
Appellate Division

Dated: September 12, 2007