

APPLICATION TO *PRO BONO* PANEL
United States District Court
District of New Jersey

_____ (the "Firm") respectfully requests that it be included on the Panel of counsel this Court has designated as eligible for appointment to represent indigent parties *pro bono*. The Firm hereby designates the below-named attorney, who is a member in good standing of the Bar of this Court, as its Liaison Attorney to the *Pro Bono* Panel.

FIRM NAME _____

ADDRESS _____

PHONE _____

FAX _____

LIAISON ATTORNEY (Name/Title) _____

ADDRESS (if different) _____

PHONE _____

FAX _____

E-MAIL _____

Please indicate the vicinages in which the Firm is willing to accept appointments:

___ Camden ___ Newark ___ Trenton

The Firm and its designated Liaison Attorney understand and acknowledge that, upon the Court's acceptance of this application, the Firm will be included on the *Pro Bono* Panel.

If the Court identifies a case in which it determines that a party is eligible for *pro bono* representation, a Clerk's Office employee will contact the Liaison Attorney at the Firm selected to consider the representation. The Court's general practice is to select firms in the order in which they are listed on the *Pro Bono* Panel, but in certain cases the Court may select a firm based on expertise in a particular subject matter or area of the law. The Court then sends a letter to the Liaison for the selected Firm, notifying them that unless a conflict is identified within 14 days, an Order will be entered appointing the Firm. The Firm will be given the opportunity to review the case prior to acceptance, and upon request the Clerk's Office will forward certain key filed documents to aid the Firm in its decision.

DECLINING APPOINTMENTS BASED ON CONFLICTS OF INTEREST

The Firm and its designated Liaison Attorney understand and acknowledge that declining a *pro bono* appointment on the basis of positional or issue conflicts is discouraged:

A concurrent conflict of interest exists if: (1) the representation of one client will be directly adverse to another client; or (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client, or a third person or by a personal interest of the lawyer.

R.P.C. 1.7(a).

Ordinarily a lawyer may take inconsistent legal positions in different tribunals at different times on behalf of different clients. The mere fact that advocating a legal position on behalf of one client might create precedent adverse to the interests of a client represented by the lawyer in an unrelated matter does not create a conflict of interest. A conflict of interest exists, however, if there is a significant risk that a lawyer's action on behalf of one client will materially limit the lawyer's effectiveness in representing another client in a different case; for example, when a decision favoring one client will create a precedent likely to seriously weaken the position taken on behalf of the other client. Factors relevant in determining whether the clients need to be advised of the risk include: where the cases are pending, whether the issue is substantive or procedural, the temporal relationship between the matters, the significance of the issue to the immediate and long-term interests of the clients involved and the clients' reasonable expectations in retaining the lawyer. If there is significant risk of material limitation, then absent informed consent of the affected clients, the lawyer must refuse one of the representations or withdraw from one or both matters.

Comment 24 to Model RPC 1.7 (2002).

Similarly, the Attorney General of New Jersey has formally opined that a law firm representing a Department, Authority, or other State, County or municipal governmental entity is not necessarily ethically precluded due to a conflict of interest from representing a client adverse to the State:

In light of the complexity and diversity of the government entities within a single Department or Authority, the representation of one subsidiary unit within a Department or Authority while being adverse to another subsidiary unit will not necessarily create a conflict. As a result, the RPC conflict analysis requires identifying with particularity which unit is truly the party in interest and is therefore the relevant government client. In some instances, the client may be a Department or an Authority, but in other cases the client may be a subsidiary unit other than a Department or an Authority.

See Letter from the Hon. Gurbir Grewal to Chief Counsel to the Governor dated May 15, 2019.

Accordingly, any Firm on the *Pro Bono* Panel list asserting that a *pro bono* appointment would create either a positional or issue conflict of interest, including arising from the Firm's representation of any State, County or municipal entity, will be required to submit a letter to the Court identifying such conflict pursuant to the factors set out in RPC 1.7, 1.8, and/or the Attorney General's May 15, 2019 letter.

ACKNOWLEDGED AND AGREED TO:

Firm Name

By: _____
(Name/Title)

Liaison Attorney (if different)
(Name/Title)

Return to:

Dana Sledge-Courtney, Courtroom Deputy
United States District Court
District of New Jersey
402 East State Street
Trenton, New Jersey 08608

probono@njd.uscourts.gov