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Pro Se Litigation in the Second Circuit

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PRO SE LITIGATION IN THE SECOND CIRCUIT

COMMITTEE ON FEDERAL COURTS OF THE NEW YORK STATE BAR ASSOCIATION*

I. BACKGROUND

This Article examines the ever exploding *pro se* docket within the Southern, Eastern, Northern, and Western Districts of the federal courts of New York State.[1] Each of the district courts within New York uses widely disparate procedures for handling *pro se* cases with very little coordination among them.[2] Consequently, *pro se* litigants are able to exploit this lack of uniformity and coordination by filing the same or similar suits in different districts, and are able to avoid the procedural requirements implemented in one district simply by suing in another. In order to make any meaningful headway into this problem it is imperative that circuit-wide procedures be adopted for handling *pro se* cases.

Instead of confining the scope of this Article to suggestions for finding increased numbers of attorneys willing to take assigned

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* This Article is based upon the Report drafted by the Subcommittee on *Pro Se* Litigation, voted on by the Committee on Federal Courts of the New York State Bar Association, and issued on October 8, 1987. The Subcommittee members are: Allithea E. Lango, Chair; Steven Glickstein, Co-Chair; Thomas S. D'Antonio; Kenneth L. Gartner; Sharon Porcellio; Stephen G. Schwarz; and John Stuart Smith. The opinions contained in this Article do not constitute the official position of the New York State Bar Association unless and until adopted by the House of Delegates.

[1] Data for this Article was gathered through interviews with selected judges, *pro se* law clerks, and court clerks in each of the four districts. The Article as originally drafted and voted upon by the Committee on Federal Courts contained several "exhibits" appended thereto. In reprinting the Article, the exhibits have not been included.

[2] The variations among the districts may be explained by reference to Federal Rule of Civil Procedure 83, which allows each district court considerable discretion in formulating its own procedural rules. Rule 83 provides that:

> Each district court by action of a majority of the judges thereof may from time to time . . . make and amend rules governing its practice[s] not inconsistent with these rules. . . . Copies of rules and amendments so made by any district court shall upon their promulgation be furnished to the judicial council and the Administrative Office of the United States Courts and be made available to the public. In all cases not provided for by rule, the district judges and magistrates may regulate their practice in any manner not inconsistent with these rules . . . .

FED. R. CIV. P. 83.

cases, we will focus on ways of improving the courts' ability to screen and consolidate cases, and to utilize available procedures that will limit unnecessary processing of cases that either have been incorrectly filed or should never have been filed in the first place. This will leave judges within the circuit in a better position to offer fewer cases to the practicing bar for assignment, and will improve the possibility that the bar's efforts can be concentrated on those cases which are truly meritorious.

A. The Nature of the Problem

At present, the *pro se* docket constitutes about sixteen percent of the total court dockets of the four districts in New York.[3] A more disturbing statistic than the high number of *pro se* cases filed in each district[4] is the "shelf-life" of such cases. *Pro se* cases generally remain on a judge's active docket longer than other categories of cases, thus occupying a disproportionate amount of each judge's time and attention. A limited survey of two district judges' active dockets revealed that 169 non-*pro se* cases filed between 1975 and 1985 were still active. Those same two judges, however, had a total of ninety-seven *pro se* cases pending of the same age. Thus, although *pro se* cases amounted to a relatively small percentage of the initial filings before these judges, they accounted for a much higher percentage of the cases that had been pending over a number of years on these judges' dockets.

By far the highest proportion of *pro se* cases are filed by inmates,[5] and an alarming percentage of inmate cases are filed by individuals with more than one pending action. Particularly in the case of section 1983 claims,[6] it is not unusual for an inmate to have cases pending in more than one district at any given time. Frequently, claims raised by inmates challenging the constitutionality of correctional office practices are independently, but simultane-

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[3] *Pro se* filings constitute a higher percentage of cases filed in the Western and Northern Disticts.

[4] The greatest number of *pro se* cases are filed in the Southern District, where the figures reach over 1,400 per year. *See* Memorandum from Marilyn T. Trautfield, *Pro se* Staff Attorney, to Scott Etheridge, Personnel Specialist (July 10, 1986) (containing statistics for Southern District on *pro se* filings from July 1, 1985 through June 30, 1986).

[5] For example, of the 1,711 *pro se* cases pending in the Southern District in September 1987, 1,155 were filed by inmates. Of the 1,155 inmate cases, 697 were section 1983 claims asserting deprivation of civil rights while in prison. *See* Computer Summary of *Pro Se* Cases for the Southern District of New York (Sept. 8, 1987).

[6] 42 U.S.C. § 1983 (1982).

ously, being raised in various actions in every district within New York State. Unfortunately, no statistics are presently being kept on this, and no procedures are in place to insure curtailment. One of the highest priorities, therefore, is to develop mechanisms for reducing the number of frivolous and/or repetitious prisoner cases.

At present, the standard section 1983 form complaint asks the inmate: "Have you begun other lawsuits in state or federal court dealing with the same facts involved in the action or otherwise involving your imprisonment?" The form then asks the inmate to identify those cases, but inmates do not usually provide sufficient information to assist in the weeding out of repetitious cases or the consolidation of related actions.

Several improvements could be made to the standard form. First, separate questions should be asked with respect to: (a) cases involving the same or similar facts in state or federal court; and (b) all other actions involving the inmate's imprisonment. This will assure quick recognition of related filings. Second, the question should be reworded to ask, "Have you ever begun other lawsuits . . . , whether or not such a case is still pending?" This will emphasize that dismissed or settled cases must be listed. Third, the inmate should be required to set forth, as a prerequisite to filing, not only the name of each action the inmate has filed, but also its docket number, the court in which the case is or was pending, the relief sought, and the ultimate decision, if any. Failure to provide this information should result in mailing the form back to the inmate with instructions on the deficiencies. An intentional failure to list a previously filed case should result in sanctions, possibly including dismissal.

Federal law allows states to establish an administrative exhaustion requirement in suits brought by prisoners filing section 1983 claims.[7] Under such law, the federal court in which the prisoner's case is filed is permitted to "continue" the action for a period of up to ninety days while the inmate pursues available administrative remedies. The continuance is authorized, however, only if the state has filed with the Justice Department, and the Justice Department has subsequently approved, formal administrative procedures that the minimum requirements set forth in the statute. New York State has the second highest prison population in the United States and the highest rate of filed prisoner com-

[7] *See* 42 U.S.C. § 1997e (1982).

plaints, and yet has failed to exercise its prerogative to complete application to the Justice Department.[8] Such failure to develop approved administrative procedures marks a glaring weakness in the continuing efforts to stem the increase in federal inmate filings.

More than ninety percent of all grievance appeals are completed within the ninety-day framework.[9] Thus, there are no significant administrative barriers to developing an approved procedure. Moreover, there is no sanction against the State for failing to resolve a claim within ninety days. The only penalty is that the stay in the federal action is lifted. Thus, there appears to be no convincing reason why the Department of Correctional Services in New York has failed to pursue a plan for approval.[10]

After prisoner actions, the next highest number of *pro se* cases are social security claims. In recent years, the number of social security claims has increased significantly. To some extent, this growth had been fostered by the Social Security Administration's policy of "non-acquiescence" in Second Circuit precedent regarding social security disability cases. The consequence of non-acquiescence was that cases which should have been quickly resolved, or perhaps not even litigated at all, were litigated all the way through trial and appeal.

Although the Social Security Administration has renounced its formal non-acquiescence policy, courts within the Second Circuit have expressed continuing exasperation with the Agency's failure to follow precedent. This has resulted in the issuance of injunctions against the federal government for failing to apply Second Circuit precedent in its administrative decisions.[11] Thus far, however, such has not appeared to have had a significant impact in reducing the number of social security cases being litigated. Indeed, the Second Circuit has recently expressed doubt about the

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[8] The application has been prepared by the New York Department of Correctional Services. However, each time it has been submitted it has subsequently been withdrawn.

[9] *See* Memorandum from Edward J. McSweeney, Assistant Director, Inmate Grievance Program, to W. Merrill Sanderson, Office of Counsel (July 22, 1987); Memorandum from Edward J. McSweeney, Assistant Director, Inmate Grievance Program, to Judith LaPook, Deputy Commissioner and Counsel (Apr. 2, 1986).

[10] It is also significant that the New York State Department of Correctional Services' previously withdrawn application treated only inmate grievances and not disciplinary matters. Since many more section 1983 cases brought by inmates deal with disciplinary matters than with inmate grievances, any future application should include disciplinary matters as well as grievance proceedings. Apparently, inclusion of disciplinary matters has never been under consideration by the Department of Correctional Services.

[11] Schisler v. Heckler, 787 F.2d 76, 81-85 (2d Cir. 1986).

government's compliance with the injunction.[12] Meanwhile, allegations of "de facto" non-acquiescence by the government continue to be litigated. It is important that this issue be resolved as quickly as possible.

B. *The* Hodge *Decision*

The problem of obtaining counsel in *pro se* cases has been exacerbated by confusion over the intended scope of the *Hodge v. Police Officers* decision.[13] Prior to *Hodge*, district court judges exercised wide latitude in determining whether to appoint counsel for *pro se* litigants pursuant to section 1915(d) of title 28 of the United States Code. Indeed, on its face, the section gives district judges virtually unlimited discretion, stating only that "[t]he court may request an attorney to represent any such person unable to employ counsel."[14]

In *Hodge*, however, the Second Circuit held that while district judges have "[b]road discretion" in determining whether to appoint counsel pursuant to section 1915(d), "that does not mean that a court can do whatever it pleases."[15] The court then articulated a number of factors to be used in determining whether counsel should be appointed. These factors include the probability of success; the complexity of the legal and factual issues; and the ability of the *pro se* litigant to conduct an investigation and present his or her case.[16] The difficulty that has resulted in applying these factors has been that, with the exception of probability of success, in virtually all cases the articulated factors would tend to favor the appointment of counsel. Moreover, the "colorability" of a claim is already a factor to be considered in determining whether to allow a *pro se* litigant to proceed *in forma pauperis* at the outset.[17] Since there appears to be little, if any, difference in the language used to describe the standard needed to permit a litigant to proceed *in forma pauperis* and that which would entitle the litigant to assigned counsel, *Hodge* could be construed to direct that an attorney be appointed in virtually every case.

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[12] Hidalgo v. Bowen, 822 F.2d 294, 298-99 (2d Cir. 1987).

[13] 802 F.2d 58 (2d Cir. 1986).

[14] 28 U.S.C. § 1915(d) (1982).

[15] *Hodge*, 802 F.2d at 60.

[16] *Id.* at 60-61.

[17] *See* 28 U.S.C. § 1915(d) (1982) ("[t]he court . . . may dismiss the [*in forma pauperis* action] . . . if satisfied that the action is frivolous or malicious").

We do not believe that the Second Circuit intended such a result. As the Second Circuit itself recognized, "[i]f mere bald assertions by an indigent, which technically put a fact in issue and suffice to avert summary judgment, required appointment of an attorney under section 1915(d), the demand for such representation could be overwhelming."[18] However, the Second Circuit's use of inconsistent language to articulate the level of success which must be found before appointment is required has generated some confusion in the lower courts. Obviously, there is much leeway between "some chance of success,"[19] which would seem to require appointment of counsel in most cases, and "likely to be of substance,"[20] which implies a higher threshold.

Because decisions regarding the appointment of counsel are rarely published, there has been little opportunity to clarify the *Hodge* decision. Our informal survey indicates that although some judges since *Hodge* have leaned heavily toward significantly increased appointments, most judges view *Hodge* as codifying their pre-existing practice and continue to appoint counsel only where an individualized assessment suggests that an apparently legitimate case cannot proceed without the assistance of an attorney. We believe that more published decisions explaining the reasons for appointing or declining to appoint counsel would result in reducing the confusion and uncertainty which *Hodge* has generated, particularly those decisions declining to appoint, since they present the opportunity for appellate review and clarification by the Second Circuit.[21]

C. *Attorney's Fees and Costs*

The willingness of counsel to volunteer for assignments is influenced by the availability of fees and the potential for recovery of costs. Of the *pro se* cases filed, attorneys are most easily secured for those cases where fees are most probably available.

Three types of Social Security benefits are litigated in federal

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[18] *Hodge*, 802 F.2d at 60.

[19] *Id.* at 60-61.

[20] *Id.* at 61.

[21] In that connection, the Second Circuit has recently confirmed that a decision to deny appointment is not appealable as an interlocutory order, Welch v. Smith, 810 F.2d 40, 42 (2d Cir.), *cert. denied*, 108 S. Ct. 246 (1987), and that upon ultimate appellate review a decision to deny appointment will not be reversed absent an abuse of discretion. Pena v. Choo, 826 F.2d 168, 168 (2d Cir. 1987).

courts: old age benefits; supplemental security income (commonly called "disability benefits"); and Medicare benefits. A statutorily created contingent fee of up to twenty-five percent of the award exists for old age and Medicare cases.[22] There is no similar provision in disability cases and, for a while, it was uncertain whether attorney's fees could be awarded in such cases. However, with the enactment of sections 2412(b) and 2412(d)(1) of title 28 of the United States Code—authorizing fees in most suits against the government and mandating fees where the government's position is not "substantially justified"[23]—the decisions now permit attorney's fees in disability cases.[24]

It would be desirable, however, for courts to also allow *pro se* litigants to consent beforehand to a twenty-five percent contingent fee. This would provide a greater incentive for the attorney to take the case, since it would allow the attorney to obtain the twenty-five percent contingent fee or the amount provided by statute, whichever is greater. In the event the contingent fee was higher than the amount provided by statute, the *pro se* litigant should be entitled to the statutory fees awarded, thus reducing the severity of the contingent fee.

Similar provisions for attorney's fees could also be made in civil rights actions, particularly section 1983 claims, and EEOC cases. At present, the court in such cases has discretion to award reasonable attorney's fees to the prevailing party.[25] However, there is no reason why *pro se* litigants in such cases should not also be empowered to authorize a twenty-five percent contingent fee in circumstances where the contingent fee exceeds the statutory fee. As previously indicated, allowing such contingent fees might encourage more attorneys to volunteer for such cases.

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[22] 42 U.S.C. § 406(b)(1) (1982) (old age); 42 U.S.C. § 1395ii (1982 & Supp. IV 1986) (medicare).

[23] 28 U.S.C. § 2412(b), (d)(1) (1982 & Supp. IV 1986).

[24] *See, e.g.*, Fleming v. Bowen, 637 F. Supp. 726, 730-31 (D.D.C. 1986) (governmental agency's denial of plaintiff's disability claims was not supported by "substantial evidence"); Soto-Valentin v. Heckler, 619 F. Supp. 627, 630-31 (E.D.N.Y. 1985) (the law as to applicable standard in plaintiff's case was settled before that motion was litigated).

[25] *See* 42 U.S.C. § 1988 (1982) (civil rights cases); 42 U.S.C. § 2000e-5(k) (1982) (EEOC cases).

II. Procedures Presently in Use in Federal Courts in New York

A. *Southern District*

Recently, in the Southern District, a new process for handling the *pro se* docket has been implemented.[26] Under the new procedures, the *pro se* law clerks and their staffs, before considering the possible appointment of counsel, review the subject matter of each complaint as presented for filing. A computer check is then run in which the names of all the parties to the *pro se* matter are compared with those in pending cases in order to ascertain if the case constitutes a repetitious filing. Similarly, the complaint is compared with pending individual actions within the district and with pending class actions throughout the Second Circuit.[27]

The *pro se* law clerk then forwards the case file to the judge assigned[28] with a written recommendation with regard to *in forma pauperis* status, attorney assignment, the underlying merits, and possible consolidation. The law clerk then summarizes the subject matter of each case for circulation to all firms on the *pro bono* panel with a request that each firm select cases on a regular basis from that panel.[29]

In the Southern District, a *pro se* case is left pending decision for an average of only twenty-seven days. This very efficient handling of cases is apparently due in large part to the relatively frequent use of summary dismissals.[30] Such reveals that an initial re-

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[26] In the Southern District, the *pro se* docket is monitored by a *pro se* committee currently chaired by Judge Robert W. Sweet. All *pro se* cases are computer stored, and case status information is updated on a monthly basis.

[27] As of yet, the process is not infallible and needs further standardization and revision, especially with respect to information sources for repetitious filings.

[28] Judge assignments reflect an effort to group similar subject matters and identical parties.

[29] At the time assignment is accepted, the plaintiff is required to sign a limited waiver of attorney-client privilege should counsel for any reason seek to be relieved. This waiver permits counsel to disclose *in camera* his or her reasons for seeking to withdraw from a case, presumably making withdrawal easier and hence eliminating a barrier to acceptance of *pro se* cases.

[30] Summary dismissal in the Southern District describes the process by which a *pro se* complaint is scrutinized before issue has been joined. The Chief Judge issues a dismissal order for a variety of reasons that may include impropriety of the pleadings, a total failure to state a claim, or an absence of subject matter jurisdiction. In nearly every instance, the dismissal is without prejudice to a later and proper filing. Court records indicate that of the roughly 1,500 cases filed in the twelve months preceding July 1987, 644 of those filings were summarily dismissed. More than one-third of those dismissals were appealed and, as of July

view of the complaint can provide a significant reduction in the court's docket.

Finally, the *pro se* office of the Southern District provides an important community service in distributing information and assisting *pro se* litigants. For example, at the time of every filing, each litigant is provided with a copy of the Federal Civil Litigation Handbook, prepared by Maryellen Fullerton, Professor of Law at Brooklyn Law School. The publication was undertaken with the support and direction of the Southern District *Pro Se* Committee. This type of information, and the very visible profile of the *pro se* office not only assists litigants, but the consequently improved practices ultimately relieve the ever increasing burden of *pro se* litigation upon the judges and their staffs.

B. Eastern, Northern, and Western Districts

Unlike the Southern District, no subject matter review or comparison of cases is done by the *pro se* law clerks in the Eastern, Northern, or Western Districts. Nor is a computer check made on prior filed actions by party plaintiffs, although the Eastern District guidelines provide for a manual check. The complaints are merely reviewed for technical sufficiency and forwarded to the assigned judge with remarks on the necessity of assigned counsel. In some instances, judges then request assigned counsel. Such assignments are made on a random basis. Unlike the Southern District, no subject matter summary is provided to assigned counsel. The case file is simply forwarded to an attorney on an active *pro bono* list with the hope that it will not be returned.

Like the Southern District, the Eastern District has developed a Civil *Pro Bono* Panel consisting of attorneys who have indicated a willingness to serve as appointed counsel.[31] Neither the Northern nor the Western Districts have published guidelines for handling *pro se* cases or for appointing counsel. The Eastern District[32] has established the Eastern District Civil Litigation Fund, Inc., which is designed to help defray expenses of assigned counsel who could not otherwise handle *pro bono* matters. Assigned attorneys may

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1987, none of those appealed dismissals were reversed.

[31] The Eastern District also permits, although it does not require, *pro se* litigants to sign limited waivers of attorney-client privilege to assist in applications to be relieved.

[32] Recently, the Eastern District was the subject of an extensive report by Professor Milton Human, which among other things, described in detail the efforts made to address the logistics of *pro se* litigation. The report is extremely informative.

apply for expenses of up to two hundred dollars and, in unusual cases, for more than that amount.

The Northern District has adopted a partial filing fee rule, which has reduced the subsequent number of *pro se* filings by over thirty-eight percent.[33] Such fees, which have the effect of deterring frivolous litigation, have been found acceptable by courts in other circuits.[34] However, since the imposition of the Northern District's filing fee, the other three districts still operating without such a fee are receiving filings from inmates located within the Northern District. These papers are being filed without payment and are then transferred to the Northern District. The result is that some Northern District litigants are successfully avoiding the partial filing fee. Moreover, the differing treatment being afforded plaintiffs within and without the Northern District leaves open the possible equal protection challenge to the filing fee practice. Inmates throughout the New York State Department of Correctional Services are being treated differently depending solely upon their geographic location.

III. RECOMMENDATIONS

A. *Reducing the Number of Cases Needing Assigned Counsel*

Although there is an obvious and ever-present need to provide the court and litigants with available counsel to accept assigned cases, there is also a need to reduce repetitious and spurious filings in a consistent manner throughout the Second Circuit. We recommend standardization of procedures and extensive sharing of information among the districts within the circuit. This effort should be spearheaded by the Circuit Executive and the clerks of the various courts including, of course, the *pro se* clerks.

Court clerk employees faced with *pro se* matters should be permitted to develop an exclusive *pro se* identity within each clerk's office. Emphasis should be placed upon inter-district data sharing, regular meetings to improve *pro bono* practices, and up-

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[33] Each *pro se* prisoner litigant must pay an amount equal to ten percent of deposits received in his or her inmate account over the previous three months. This is verified by a certified statement of account. The average filing fee ranges from eight to ten dollars.

[34] *See, e.g., In re* Williamson, 786 F.2d 1336, 1338-39 (8th Cir. 1986); Bullock v. Suomela, 710 F.2d 102, 103 (3d Cir. 1983); Smith v. Martinez, 706 F.2d 572, 573 (5th Cir. 1983); Evans v. Croom, 650 F.2d 521, 525 (4th Cir. 1981), *cert. denied*, 454 U.S. 1153 (1982); *In re* Stump, 449 F.2d 1297, 1298 (1st Cir. 1971).

dated case information on substantive and procedural issues.

Presenting a unified system will not only reduce repetitious filings, but will provide a forum for constant system improvement. As *pro se* law clerks come and go within each district, both satisfactory and unsatisfactory practices fall in and out of use. A standardized system of coping with the large number of *pro se* filings will obviously increase efficiency and overall reduce pending cases.

In order to accomplish improved circuit-wide practice with respect to *pro se* filings, the following is recommended:

1. Reduce Frivolous, Repetitious, or Unnecessary Filings:

a. Impose a partial filing fee in all districts;

b. Require *pro se* plaintiffs to identify not only their pending litigation, but also all of their prior filings; failure to provide requested details about other cases should result in mailing the complaint back to the *pro se* litigant with an explanation of the deficiencies; failure to list a case entirely should result in sanctions, including possible dismissal;

c. Computerize on a circuit-wide basis information on all *pro se* filings in order to check for related cases filed by other litigants and to verify the accuracy of the case listings provided by the particular *pro se* plaintiff; this computer check should be completed before *in forma pauperis* status is granted;

d. Direct judges to consolidate cases filed by a single plaintiff or involving similar subject matter;

e. Establish procedures for summary dismissal before joinder of issue;

f. Urge the New York Department of Correctional Services and the New York Attorney General to submit to the Department of Justice a procedure for prompt review of section 1983 claims filed by prisoners in order to impose an administrative exhaustion requirement; such an exhaustion procedure should encompass disciplinary claims as well as grievance claims;

g. Impose stiff sanctions in cases where the government continues to litigate in contravention of established case law.

2. Clarify the *Hodge* Decision:

a. Clarify the bases for the *Hodge* decision through the broader dissemination of written opinions and ultimate review by the Second Circuit; confirm that the threshold standard for considering appointment of counsel is that the claim is "likely to be of substance," not merely that it have "some chance of success."[35]

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[35] Hodge v. Police Officers, 802 F.2d 58, 61-62 (2d Cir. 1986).

B. Increasing the Number of Attorneys Willing to Accept Assignments

In addition to measures taken to reduce the number of cases needing assigned counsel, steps can be taken to increase the number of attorneys available to handle such matters. The following is recommended:

1. Adopt Procedures which Make it Easier for Attorneys to Accept, Handle, and Withdraw from Assigned Cases:
   a. Develop a civil *pro bono* panel in all districts; establish an ongoing program to recruit additional members to the panel;
   b. Require applicants for assigned counsel to execute limited waivers of attorney-client privilege in the event assigned counsel later wishes to file an *in camera* application to be relieved;
   c. Require that all applications by assigned counsel to be relieved be filed with and heard by a judge not assigned to the case, so as not to prejudice the client;
   d. Prepare and disseminate summaries of cases available for assignment in order to assist counsel in the selection of the most meritorious cases;
   e. Adopt uniform standing orders which routinely permit non-stenographic recordings and/or telephonic depositions in order to reduce expenses.
2. Provide for Greater Availability of Attorney's Fees and Costs to Assigned Counsel:
   a. Award attorney's fees to assigned counsel as a matter of course in cases where such fees are authorized by statute, unless compelling reasons exist to deny the fee application;
   b. Permit applicants for assigned counsel to consent to a twenty-five percent contingent fee regardless of the type of case; permit assigned counsel to keep the greater of the statutory award or the contingent fee (with the statutory award being assigned to the client in the event the contingent fee is higher) and eliminate any requirement that attorney's fees be deducted from the award in social security cases;
   c. Establish funds like the Eastern District Fund in each district to help defray disbursements for those attorneys unable to bear such expenses.

C. Assisting the Pro Se Litigant

Providing additional information and assistance to *pro se* litigants can result in a decrease in the number of papers filed with technical deficiencies and in the more expeditious processing of

cases. The following is recommended:

1. Provide full-time *pro se* clerks who can provide technical assistance to, and answer questions from, *pro se* litigants; such personnel should not be asked to divide their time with non-*pro se* tasks.
2. Distribute literature, such as the Federal Civil Litigation Handbook used by the Southern District, which provides practical information to *pro se* litigants concerning the handling of their cases.