

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

| | | |
|-----------------------------|---|-------------------|
| HAROLD B. WILSON, |) | 4:11CV3215 |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | MEMORANDUM |
| |) | AND ORDER |
| DIANE SABATKA-RINE, et al., |) | |
| |) | |
| Defendants. |) | |

I recently denied, in part, a motion for summary judgment and it appears that this case may be headed for a trial. In light of this, and Plaintiff's pro se status, I conclude that counsel should be appointed. *See, e.g., [Davis v. Scott, 94 F.3d 444, 447 \(8th Cir. 1996\)](#)* ("The trial court has broad discretion to decide whether both the plaintiff and the court will benefit from the appointment of counsel") Furthermore, I have consulted with Chief Judge Smith Camp and she has agreed that the Federal Practice Fund may be used to assist with the appointment of counsel. Still further, the court has consulted with Ms. Marnie Jensen and she has graciously agreed to accept an appointment in this case. Accordingly,

IT IS THEREFORE ORDERED that:

1. With thanks for accepting the appointment, Marnie Jensen is hereby appointed to represent Plaintiff. The Clerk of the court shall provide Ms. Jensen with a copy of this Memorandum and Order.
2. Ms. Jensen shall promptly enter her appearance.
3. Upon the entry of Ms. Jensen's appearance, the Clerk of the court shall immediately pay from the Federal Practice Fund the sum of \$1,000 to Ms. Jensen.
4. A second and the last installment of \$1,000 shall become due and payable upon the entry of judgment in the district court or upon an order terminating Ms. Jensen's service as Plaintiff's attorney.

5. Ms. Jensen may incur reasonable expenses when representing Plaintiff in accordance with parts III(A), VI(C), and VI(E) of the *Amended Plans for Administration of the Federal Practice Funds and Federal Practice Committee*.¹ See also [NEGenR 1.7\(g\)](#) and [NECivR 54.3-54.4](#).

6. If this suit results in an award of attorney fees pursuant to [42 U.S.C. § 1988](#), Ms. Jensen shall reimburse the Federal Practice Fund from that award for the lesser amount of (a) the attorney's fee and expenses authorized in this order or (b) the attorney's fee and expense awarded pursuant to [42 U.S.C. § 1988](#). She shall retain the greater of those two amounts.

7. In accordance with General Order Number 2013-02, this case is removed from the pro se docket and reassigned to United States Magistrate Judge Thomas D. Thalken. This Memorandum and Order does not change the assignment of the district judge.

8. The Clerk of the court shall provide Plaintiff, counsel for Defendants, Chief Judge Smith Camp, and Judge Thalken with a copy of this Memorandum and Order.

9. This case is referred to Judge Thalken for full pretrial management and further progression.

DATED this 2nd day of October, 2013.

BY THE COURT:

s/ Joseph F. Bataillon
United States District Judge

¹Available at <http://www.ned.uscourts.gov/internetDocs/pom/crtplans/fedpract.pdf>

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