

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FOURTH JUDICIAL DISTRICT

In the Matter of:)
)
APPOINTMENT OF CONFLICT)
COUNSEL IN FAIRBANKS)
CASES)
_____)

Presiding Judge Order No. 05-05

In cases where the Court appoints counsel for a party, the attached Memorandum Of Agreement between the Fairbanks Trial Courts, Public Defender Agency, and the Office of Public Advocacy shall apply.

Rule 81 allows an attorney to withdraw when there is a conflict of interest. In an effort to save duplicative filing of motions and service by State agency staff and Court personnel, a quicker and more efficient process is appropriate when the parties agree a conflict exists and a different court appointed attorney should appear. This process will also provide counsel to indigent parties on a more expedited basis, especially in Criminal, Children in Need of Aid, and Juvenile Delinquency cases.

Therefore, IT IS HEREBY ORDERED:

1. When the Public Defender Agency and the Office of Public Advocacy agree that a conflict exists in a court appointed case, the attached Memorandum of Agreement shall be followed.
2. Pursuant to Civil Rule 81, a court appointed attorney may file a "Superseding Entry of Appearance" that will be accepted by the Court as the attorney of record.

This order is effective:

8/22/05

Date

8/22/05



NIESJE J. STEINKRUGER
Presiding Judge
Fourth Judicial District

Distribution:

Barbara Brink, Public Defender Agency
Joshua P. Fink, Office of Public Advocacy
Ruth Meier, Clerk of Court
Ron Woods, Area Court Administrator

Paul Carnarsky, Fairbanks Public Defender
David Allen, Fairbanks OPA
Lori Bodwell, Office of Conflict Counsel
Fairbanks Pre-Trial Services

MEMORANDUM OF AGREEMENT BETWEEN
THE FAIRBANKS TRIAL COURTS, THE PUBLIC DEFENDER AGENCY,
AND THE OFFICE OF PUBLIC ADVOCACY

This agreement, negotiated between Presiding Judge Niesje J. Steinkruger, Fairbanks Clerk of Court Ruth Meier, Public Advocate Joshua P. Fink, Supervising Attorney and Assistant Public Defender Paul Canarsky, Fairbanks Office, Supervising Attorney and Assistant Public Advocate David Allen, Fairbanks Office of Public Advocacy, and Supervising Attorney and Assistant Public Advocate Lori Bodwell, Office of Conflict Counsel, Fairbanks Section, Office of Public Advocacy, establishes the following procedure on the assignment of court-appointed counsel in criminal, juvenile delinquency, and child-in-need-of-aid cases:

1. The Court will appoint the Public Defender Agency (PD) in all cases where the defendant/client is entitled to publicly appointed counsel except where a conflict is obvious to the court requiring the appointment of the Office of Public Advocacy (i.e. – jointly charged defendants);
2. PDs will do their best to perform a timely conflict check based on information available to them shortly after appointment;
3. PDs will call or email the supervising attorney of Fairbanks OPA if they determine that they have a conflict precluding their representation of the client, and shall explain the conflict if they are able to do so;

(If the PD cannot share the conflict because it is confidential, the PD shall file a motion to withdraw);

4. If the Fairbanks OPA supervising attorney or his or her designee agree that there is a conflict precluding representation by the PD, he or she will then inform pre-trial services via email or phone; (if agreement cannot be reached, the PD will file a motion to withdraw);
5. Pre-Trial services will then issue an amended or new order of appointment appointing OPA, serving all parties;
6. If a conflict exists with OPA, OPA will make the conflict counsel appointments. OPA Fairbanks, Office of Conflict Counsel Fairbanks Section, or a private OPA contractor will then enter a Superceding Entry of Appearance, serving the PD, the State, and the client; and
7. The presiding judge will enter an Order allowing Superceding Entry of Appearances to be filed in Fairbanks where the PD and OPA agree that a conflict precludes the PD from representing the defendant.
8. This agreement is effective on the date of the last parties' signature.