

Revised Exemptions from *Madden v. Delran* Pro Bono Counsel Assignments

March 13, 1995
Issued by:

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Administrative Director

This memorandum is to assist members of the Bar in complying with the requirements of the Judiciary's *pro bono* program in completing the annual *Pro Bono* Counsel Assignment Questionnaire, the bottom portion of the annual attorney registration billing card. On February 16, 1993, the Chief Justice issued a memorandum to the Bar that implemented the holding in *Madden c. Delran*, 126 N.J. 591 (1992) and listed exemptions from *pro bono* counsel assignments. Since then, there has been a reexamination of those exemptions and revisions were authorized and published in the *New Jersey Law Journal*, 139 N.J.L.J. 314 (1995), and the *New Jersey Lawyer*, 4 N.J.L. 223 (1995).

Each of the listed exemptions have been categorized and given a code number to facilitate completion of the annual *Pro Bono* Counsel Assignment Questionnaire by those who choose to claim an exemption. The following are the descriptive categories of those attorneys who are exempt from the *pro bono* requirements of *Madden* together with each exemption code:

* Recommended for promulgation as a Directive

Exemption Code Exemption Category

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| 81 | Attorneys who work full time for any local, county, State, Federal agency or authority and who by statute, rule, administrative directive, Executive Order, published Ethics Codes or Opinions, are prohibited from the private practice of law. A claim for exemption under this category must cite the specific authority under which private practice is prohibited; |
| 82 | All Supreme Court Justices; all Superior Court and Tax Court Judges; all retired Justices and Judges; all Workers' Compensation Judges; all Administrative Law Judges; all Child Support Hearing Officers or Juvenile Referees; and all Municipal Court Judges. |
| 83 | All attorneys working full time for the Administrative Office of the Courts, or on the staff of any State or Federal Judge, or any vicinage of the Superior Court or any Municipal Court, County Clerk or Surrogate. Attorneys serving as part-time municipal court directors, administrators, deputy administrators and violations bureau clerks are also exempt. |

- 84 All County and full-time Municipal Prosecutors and Assistant Prosecutors, all attorneys in the Office of Counsel to the Governor, the Attorney General and all Deputy Attorneys General, the Public Defender and all Deputy Public Defenders and all full-time Municipal Public Defenders are exempt. Part-time Municipal Prosecutors, part-time Municipal Public Defenders and Public Defender Pool Attorneys are not exempt;
- 85 All attorneys who work full time for criminal law enforcement or investigative agencies, such as police forces, the Federal Bureau of Investigation, County Sheriff, Federal Marshals, Casino Control Commission or the Internal Revenue Service;
- 86 Attorneys for whom the private practice of law is forbidden by Statute, Rule of Court or Court Order. This exemption includes resident and non-resident attorneys who do not maintain a "bona fide office" under *R. 1:21-1(a)*. A claim for exemption under this category, because the attorney does not maintain a bona fide office, must be accompanied by a certification that the attorney has not undertaken the representation of a private client or performed any legal service for a New Jersey resident or appeared in any New Jersey Court or other proceeding during the period that the attorney has not maintained a bona fide office;
- 87 Attorneys employed full time by a Legal Services Organization, as described in *R. 1:21-1(d)*, and by a Legal Aid Society;
- 88 Attorneys who certify that they have performed at least twenty-five (25) hours of *pro bono* services for *R. 1:21-1(d)* Legal Services Organization, Legal Aid Society, the United States Bankruptcy Court Pro Bono Program, Domestic Violence Services Programs, the Advisory Committee on Professional Ethics and the Committee on Character, within the year next prior to the annual New Jersey Lawyers' Fund for Client Protection registration date;
- 89 Attorneys who are members of the District Ethics Committees, Fee Arbitration Committee, Disciplinary Review Board, Disciplinary Oversight Committee and Advisory Committee on Judicial Conduct.

If you believe that you qualify for an exemption, please note the appropriate exemption code in the box on the reverse side of the form and specify why the category applies to you. Please also be certain to sign and date the certification where indicated.

Any questions concerning any of these exemptions may be brought either to this office at 609-984-1560 or to your Assignment Judge as indicated in the "For Questions Call" box on the front of the Questionnaire. Your support of and cooperation with the *pro bono* counsel program are greatly appreciated.

EDITOR-S NOTE

This memorandum revised an earlier memorandum to the bar issued by the Chief Justice on February 16, 1993, implementing the Supreme Court's holding in *Madden v. Delran*, 126 N.J. 591 (1992).

In *Madden* the Supreme Court ordered that a system be devised to distribute more equitably municipal court *pro bono* assignments to members of the bar. The original memorandum had set forth a listing of those categories of attorneys exempt from the *pro bono* assignment system. The memorandum reproduced herein includes the most current revisions to the exemption list.