

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

RICHARD HARRIS,

Plaintiff,

v.

Case No.: 2:21-cv-646-SPC-NPM

JAMES COTTE and JOHN DOE,

Defendants.

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**OPINION AND ORDER**

Before the court are defendant James Cotte’s Motion to Depose an Incarcerated Person (Doc. 184) and plaintiff Richard Harris’s Objection to an Extension for Evidentiary Hearing (Doc. 185). Harris is a prisoner of the Florida Department of Corrections (FDOC), and he sued Cotte—a prison guard—for excessive force. Cotte defaulted, and the Court recently continued the evidentiary hearing on damages so the parties could conduct additional discovery. Because the damages at issue include significant physical injuries to Harris, his testimony is crucial to understanding an appropriate damages award. Accordingly, the court **grants** Cotte’s request to depose Harris (Doc. 184).

In his “objection,” Harris renews his request for appointment of counsel and asks the court to hold the damages hearing within 30 days. While a

plaintiff in a civil case has no constitutional right to counsel, a “court may request an attorney to represent any person unable to afford counsel.” 28 U.S.C. § 1915(e)(1); *Bass v. Perrin*, 170 F.3d 1312 (11<sup>th</sup> Cir. 1999). The parties are headed for a full day damages hearing, which will likely include voluminous medical records and conflicting testimony. Due to these circumstances, the court will try to secure representation for Harris. The court denies Harris’s request to expedite the damages hearing. The court has already determined the parties need more time for discovery, and expediting the hearing would make finding counsel for Harris impractical. Harris’s “objection” (Doc. 185) is thus **granted in part and denied in part**.

The clerk **shall** seek counsel to represent Harris from available sources of attorneys interested in handling pro bono opportunities. The **clerk** will contact the local bar associations<sup>1</sup> to discuss the possibility of posting the request to assist this pro se litigant. The correspondence shall include the case number, a copy of this order, and the following brief factual summary:

The Court seeks an attorney to represent Richard Harris pro bono. Harris, a prisoner of the Florida Department of Corrections, sued corrections officer James Cotte for excessive force resulting in significant physical injury. Cotte defaulted, and the Court intends to hold an evidentiary hearing on damages on February 18, 2025. The parties are currently conducting discovery.

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<sup>1</sup> These include but are not limited to: The Collier County Bar Association; Lee County Bar Association; and Federal Bar Associations (Southwest Florida, North Central Florida, Orlando, and Tampa Bay chapters); and Florida Institutional Legal Services.

The correspondence should also state that the court has adopted a plan for pro bono appointments, which includes provisions governing reimbursement of expenses incurred by counsel appointed under the plan. An explanation of the plan and the procedure for obtaining reimbursement is available on the court's website ([www.flmd.uscourts.gov](http://www.flmd.uscourts.gov)).<sup>2</sup>


The **clerk** shall note on the docket which bar associations were contacted, by what means, and on what date. The correspondence should be sent **within 5 days from this order**.

If counsel wishes to represent Harris, he or she should contact the Fort Myers division of the clerk's office to notify them of his or her intent **within 45 days of this order**, and the clerk will notify the undersigned. Upon Harris's consent, the appointed counsel shall enter a notice of appearance. Until and unless an attorney enters an appearance on Harris's behalf, the case will proceed without counsel for Harris. *Harris is reminded there is no guarantee that an attorney will take his case and represent him.*

**DONE and ORDERED** in Fort Myers, Florida on November 27, 2024.

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<sup>2</sup> Once on the court's website, counsel should click the "For Lawyers" tab located at the top of the page and select the "Pro Bono Appointment in Civil Cases" tab from the drop-down menu.

  
SHERI POLSTER CHAPPELL  
UNITED STATES DISTRICT JUDGE

SA: FTMP-1

Copies: All Parties of Record