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| |  |  |  | | --- | --- | --- | | |  | | --- | | **/var/folders/fv/n5zs17js3xv6zmktc0pytsd40000gn/T/com.microsoft.Word/WebArchiveCopyPasteTempFiles/8b57783c-8d97-46ef-9905-83088f3f2150.jpg**  **Fall 2018 Newsletter**  ***News and Events*** | | | | |  |  |  |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | | |  | | --- | | In This Issue: | | [Magistrate Judge Hegarty Sums Up the District Court by the Numbers](https://ui.constantcontact.com/visualeditor/visual_editor_preview.jsp?agent.uid=1131527010002&format=html&printFrame=true#b)  [Practicing as a New Attorney in Federal Court: What You Need to Know](https://ui.constantcontact.com/visualeditor/visual_editor_preview.jsp?agent.uid=1131527010002&format=html&printFrame=true#c)  [Perspectives from the Bench Presented by Magistrate Judge Kathleen M. Tafoya](https://ui.constantcontact.com/visualeditor/visual_editor_preview.jsp?agent.uid=1131527010002&format=html&printFrame=true#d)  [What Modern Lawyers Can Learn from Lincoln: An FFA CLE](https://ui.constantcontact.com/visualeditor/visual_editor_preview.jsp?agent.uid=1131527010002&format=html&printFrame=true#e)  [Colorado Goes to the Supreme Court](https://ui.constantcontact.com/visualeditor/visual_editor_preview.jsp?agent.uid=1131527010002&format=html&printFrame=true#f)    [Colorado's Federal Pro Se Clinic - First Steps](https://ui.constantcontact.com/visualeditor/visual_editor_preview.jsp?agent.uid=1131527010002&format=html&printFrame=true#h)  [Training Benefits of Pro Bono Work](https://ui.constantcontact.com/visualeditor/visual_editor_preview.jsp?agent.uid=1131527010002&format=html&printFrame=true#i)  [The Civil Pro Bono Panel: Our Experience Litigating a Pro Bono Case](https://ui.constantcontact.com/visualeditor/visual_editor_preview.jsp?agent.uid=1131527010002&format=html&printFrame=true#j)  [Upcoming Faculty of Federal Advocates Events](https://ui.constantcontact.com/visualeditor/visual_editor_preview.jsp?agent.uid=1131527010002&format=html&printFrame=true#k)  [FFA Contact Information](https://ui.constantcontact.com/visualeditor/visual_editor_preview.jsp?agent.uid=1131527010002&format=html&printFrame=true#l) |  |  | | --- | |  |  |  | | --- | | [**Who We Are**](http://www.facultyfederaladvocates.org/whoweare.html) | | **Board of Directors**  Kathleen E. Craigmile  **President**  Benjamin Strawn  **President-Elect**  Russell O. Stewart  **Treasurer**  Kirstin M. Jahn  **Secretary**  Marilyn S. Chappell **Newsletter Editor**  Christine A. Samsel  **Immediate Past President**  Seth J. Benezra  Ethan J. Birnberg  Ryan T. Bergsieker  Justin Bishop Grewell  Daniel Graham  Emily Hobbs-Wright  Josh Lee  Scott A. Moss Elisabeth L. Owen  Daniel R. Shaffer |  |  | | --- | |  |  |  | | --- | | **[Mission of the Faculty of Federal Advocates](http://Faculty of Federal Advocates Membership Link" \t "_blank)**  **The Faculty of Federal Advocates (FFA)** is an organization of attorneys dedicated to improving the quality of legal practice in the federal courts in Colorado by enhancing advocacy skills, professionalism, and the integrity of practice.  The FFA provides continuing legal education classes, mentoring and pro bono opportunities, and other support services to foster and demonstrate commitment to the highest standards of advocacy and professional and ethical conduct.  The FFA promotes support, mentorship, education, and camaraderie for federal court practitioners.  Become a member or learn more at our website:  [facultyfederaladvocates.org](http://www.facultyfederaladvocates.org/membership/) | |  |  |  | | --- | | **Quick Links**  [**Join the Faculty of Federal Advocates Here!**](http://www.facultyfederaladvocates.org/join-the-ffa/)  [U. S. Supreme Court](http://www.supremecourtus.gov/)  [U. S. Court of Appeals 10th Circuit](http://www.ca10.uscourts.gov/)  [U. S. District Court  District of Colorado](http://www.cod.uscourts.gov/" \t "_blank)  [DColoMediators.org](http://dcolomediators.org/)  [U. S. Attorneys Office Colorado](http://www.usdoj.gov/usao/co/)  [Federal Public Defender Colorado/Wyoming](http://www.cofpd.org/)  [Colorado State Courts](http://www.courts.state.co.us/)  [Judicial Officers Procedures](http://www.cod.uscourts.gov/JudicialOfficers.aspx)  [*Our Courts*](http://www.ourcourtscolorado.org) | |  | | | |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | | |  |  |  | | --- | --- | --- | | **Issue: 2018/3** | **Fall 2018** |  |  |  | | --- | | **Welcome to the Faculty of Federal Advocates**  **Fall Electronic Newsletter**  [www.facultyfederaladvocates.org](http://www.facultyfederaladvocates.org)  The Newsletter brings you news about FFA events and CLE programs along with useful information for federal practitioners, including links to relevant websites.  The FFA welcomes contributions to our Newsletter from our membership. Newer attorneys, experienced attorneys, and law students are all encouraged to submit articles. If you are interested in submitting an article to be considered for publication, please contact the FFA by emailing [dana@facultyfederaladvocates.org](mailto:dana@facultyfederaladvocates.org).    **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |  |  | | --- | | b  **Magistrate Judge Hegarty Sums Up The District Court by the Numbers**  By Kirstin Jahn and Marilyn Chappell  United States Magistrate Judge Michael E. Hegarty presented essential knowledge about cases filed and tried in the U.S District Court for the District of Colorado in 2017 at an FFA-sponsored continuing legal education program on July 26, 2018.  Judge Hegarty's handout for the presentation is available by clicking [HERE](http://static1.1.sqspcdn.com/static/f/3449839/27955264/1532712135690/Hegarty+2018+Materials.pdf?token=YIFsk4jDHPKt5K2VNBEJCjCoIHw%3D).  The following is a brief summary.  **Civil Jury Trials**    In 2017, a total of 3,184 cases were filed.  The average rate of civil cases resulting in a jury trial in 2017 was 1.26%, a slight decrease from the 2016 rate.  Forty civil jury trials were conducted.  Defendants prevailed in 24 cases, plaintiffs prevailed in 15, and one reached a split verdict.  The average time to trial was 28.4 months, a slight decrease from the 28.6-month average in 2016.  **Criminal Jury Trials**  In 2017, 489 felony cases were filed in the District, a sharp increase in number from the 396 cases filed in 2016.  Twenty felony jury trials were conducted in 2017, with a rate of trials of 4.09% - again, substantial increases over the comparable figures in 2016.  Convictions occurred in 18 of the cases, one saw a defense verdict, and one resulted in a hung jury.  The average time to trial was 14.9 months, shorter than the 2016 average of 16.4 months.  **Magistrate Judge Consent in Civil Cases**  As of the end of 2017, Magistrate Judges had 687 consent cases.  Of the total of 3,617 cases that had been received by Magistrate Judges as of 2017, a consent decision was made in 38.7% of them.  The consent rate has increased substantially from the 37 cases consented to in 2013, the year before the District adopted the Pilot Project on direct assignment of civil cases to Magistrate Judges.  **Alternative Dispute Resolution**  In 2011, the District instituted a new paradigm concerning ADR, offering Early Neutral Evaluation ("ENE") as the presumptive process, with settlement conferences occurring only on motion to the presiding judicial officer. This process has resulted in a decreased number of settlement conferences.  In 2017, 115 settlement conferences were conducted, down from 486 in 2011.  Two ENEs took place in 2017.    The FFA thanks Magistrate Judge Hegarty for presenting this program, and those who attended.  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |      |  |  | | --- | --- | | c  **Practicing as a New Attorney in Federal Court:  What You Need to Know**  By Kathleen Pritchard    On July 19, 2018, the FFA hosted its annual event introducing new attorneys to practicing in federal court.  FFA Board Member Daniel Graham welcomed the attendees and introduced the initial panel of participating judges:  United States District Judge William J. Martinez, Senior Judge John L. Kane, and Magistrate Judge Kristen L. Mix.    Magistrate Judge Mix kicked off the panel by discussing the importance of clear, concise writing.  She suggested that in each substantive pleading, attorneys summarize the argument in an introduction and a conclusion.  By doing so, the message will be clearer and more readily understood. Magistrate Judge Mix also discussed the importance of exhibiting respect in the courtroom.  She advised attorneys to adhere to the "3 Ps" when appearing in the courtroom:  be prompt, prepared, and professional.  In discussing her practice standards, Magistrate Judge Mix recommended thinking about each judge's practice standards as an insight into the judge's personality. Practice standards embody the judge's view of the best practices in his or her courtroom, and they provide a roadmap for attorneys to structure a motion that effectively presents the issues to the judge.    District Judge Martinez agreed with Magistrate Judge Mix that unnecessarily verbose writing should be avoided, and that often, a shorter brief is harder to write than a longer one.  He spoke about the misstep some attorneys make by filing too many claims or counterclaims, instead of focusing on the real issues in the case.  He also warned against mischaracterizing a court's holding in a case, because an attorney's reputation for honesty and integrity is vital in the courtroom.  Judge Martinez emphasized the importance of gaining courtroom experience, especially for new attorneys, and suggested attorneys seek out opportunities through the Civil Pro Bono Panel program.  In addition, under his practice standards, Judge Martinez permits attorneys with less than seven years of experience to request an opportunity to argue his or her motion to the court.    Senior Judge Kane also provided writing tips, encouraging attendees to read Aristotle's *The Art of Rhetoric*as a guide to improving an argument's persuasiveness. For instance, Judge Kane advised attorneys to avoid sarcasm and *ad hominem* attacks on opposing parties, as these rhetorical devices are rarely persuasive.  In addition, Judge Kane warned attorneys to never cite cases they have not read, and in preparing for oral argument, to become familiar with the facts of the cases cited in their briefs. He offered a practical piece of advice for preparing for an appearance in his courtroom:  a courtroom appearance is a form of a theater, especially when the jury is present, so an attorney should always be mindful of his or her presence. Regarding his practice standards, Judge Kane remarked that he does not have many individual requirements, but the lack of a page limit on summary judgment motions does not mean attorneys should repeat themselves in motions.    Following the judges' panel, a group of young lawyers discussed their experience providing pro bono representation through the District's Civil Pro Bono Panel program.  Lisi Owen moderated the panel, comprised of Anna-Liisa Mullis, Cheyenne Moore and Parker Smith.  The panelists discussed the invaluable experience they gained by taking on Panel cases, whether through serving as first chair in a trial or as the primary point of contact with the client.  The panelists agreed that the independence and responsibility associated with taking on pro bono cases improved their confidence as attorneys.  (For those attorneys who are interested in more information about the Panel, please contact Edward Butler through the District's Clerk's Office.)    Jeffrey Colwell, the Clerk of Court, described the scope of his job's responsibilities, which touch on every aspect of the District outside of the judges' chambers.  In particular, Mr. Colwell focused on the District's electronic filing system (CM/ECF), pointing out that the ECF Help Desk is available to answer questions related to filing in the District. Mr. Colwell also encouraged attorneys to watch the attorney training video available [HERE](https://www.cod.uscourts.gov/Documents/Video/Attorney_Training_Video.mp4).    Edward Butler, the District's Legal Officer, spoke about the importance of following the District's Local Rules and each judge's practice standards.  A PowerPoint discussing the common pitfalls attorneys make when practicing in federal court, and how to avoid those pitfalls, was prepared by Mr. Butler based on a review of the judges' practice standards and interviews conducted with the judges and their staff.  It can be found [HERE](http://static1.1.sqspcdn.com/static/f/3449839/27948900/1531860086653/2018+USDC+Local+Rules+and+Practice+Tips1.pdf?token=xVTKlpFUrVd5DZQF30Ip%2FUr5sig%3D).    U.S. Bankruptcy Judge Kimberley H. Tyson, who was appointed to the U.S. Bankruptcy Court for the District of Colorado in May 2017, provided an introduction to bankruptcy law.  Judge Tyson explained that although the practice of bankruptcy law may be viewed as very specialized, it is important for attorneys to be familiar with bankruptcy proceedings because they have the potential to have wide-ranging effects.  Litigators should be aware that an automatic stay takes effect when a bankruptcy is filed, staying related lawsuits and prohibiting any collection efforts. For corporate attorneys, the possibility of bankruptcy may inform how a transaction is structured.  Finally, Judge Tyson recommended that attorneys seeking to gain courtroom experience consider providing pro bono representation in adversary bankruptcy proceedings involving dischargeability of claims.    To close the event, Tom Overton and Kendra Beckwith moderated an ethics trivia game called "Lawyers Who Think."  After dividing into teams, the attendees answered questions about the District's rules of professional conduct and the Colorado Rules of Professional Conduct. The trivia game highlighted the ways in which the ethics rules vary within the overlapping jurisdictions.    The FFA would like to thank all those who contributed to this event, including the judges and the District staff members, as well as all those new lawyers who attended. |  | | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | |      |  |  | | --- | --- | | d |  | | **Perspectives from the Bench Presented by Magistrate Judge Kathleen M. Tafoya**  By Jessamyn L. Jones    On October 11, 2018, United States Magistrate Judge Kathleen M. Tafoya "held court" in the U.S. District Court for the District of Colorado's Colorado Springs courthouse, opening her courtroom to local practitioners to discuss federal practice in the District's Jury Division Four.    There are four federal court jury divisions in our state, with Colorado Springs being in Division Four, referred to as the Pueblo Jury Division.  While there are now part-time U.S. Magistrate Judges in both Durango (Division Two) and Grand Junction (Division Three), there was no Magistrate Judge assigned the Pueblo Jury Division until recently.    In February this year, Magistrate Judge Tafoya relocated to the Colorado Springs courthouse, located at 212 N. Wahsatch Avenue, Colorado Springs, Colorado, 80903.  Magistrate Judge Tafoya explained that the goal of relocating a Magistrate Judge to Colorado Springs is to provide the El Paso County bar and other lawyers in Division Four increased opportunities to litigate in federal court without making the commute to Denver.  Practitioners in Southern Colorado are often leery of filing in federal court given the two- to three-hour commute associated with a Denver court appearance.  Moreover, it is often cost-prohibitive for clients to file in Denver.    Another issue for Southern Colorado practice is the jury pool.  The jury pools between Northern and Southern Colorado can vary drastically.  Typically, only grand juries, not petit juries, are called from the jury pool in Southern Colorado.  Only the top quarter of the state is typically drawn for petit juries, which means that those juries are largely pulled from the Denver metro area.    When a case arises in Southern Colorado, but is litigated in Denver, it is possible for the parties to have a jury called from Division Four.  But this can only be done by special request to the District Judge and often, for logistical reasons, pulling a jury from Division Four to hear a case pending in Denver is not a viable option.  It necessarily requires those individuals to commute to Denver for jury selection and to hear the case once selected to serve.    Assigning a full-time Magistrate Judge to Colorado Springs will hopefully help solve these issues, at least for those parties who consent to try their civil cases before Magistrate Judge Tafoya in Colorado Springs.  Those parties will be afforded an opportunity for their cases arising in Southern Colorado to be tried before a jury of peers pulled from Division Four, and the cases will likely be propelled forward faster.  As Magistrate Judge Tafoya pointed out, discovery matters and non-dispositive motions (and other preliminary matters) in cases in which consent is not given and which are drawn to District Judges, are most often handled by Magistrate Judges regardless whether the parties consent to magistrate judge jurisdiction over the entire case.  In Southern Colorado cases, it is highly likely that the Magistrate Judge assigned in the referral role will be Magistrate Judge Tafoya.  Consenting to magistrate judge jurisdiction in Division Four could streamline the process and allow cases to be handled in a more efficient manner.    While it appears that relocating a Magistrate Judge to Colorado Springs will give both litigants and the bar greater access to the federal court, there are still a few "kinks" to work out.  The current courthouse only has capacity for one courtroom.  Magistrate Judge Tafoya hopes to see an expansion of the federal courthouse, including the addition of another Magistrate Judge, and ideally, a District Judge.  As she pointed out, without a District Judge there is no ability to try felony cases in Colorado Springs absent the agreement of a District Judge to travel to Colorado Springs for court proceedings and to share a courtroom and chambers.    Magistrate Judge Tafoya also provided practitioners with insights into her practice standards, offering guidance as to what she does (and does not) find helpful from attorneys appearing in federal court.  For example, she reminded attorneys that judges have *a lot* to read and it is helpful to provide a well-written, tight summary at the beginning of a pleading.  In that same vein, Magistrate Judge Tafoya advised attorneys not to repeat themselves as it causes judges to lose interest.  As for oral advocacy, Magistrate Judge Tafoya noted that it is not helpful to fight with opposing counsel; judges cannot rule on the basis of frustration, and the greater attorneys' level of frustration, the less effective advocates they become.  Finally, and perhaps most importantly, Magistrate Judge Tafoya said that attorneys should never be afraid to politely tell a judge that they think the judge is wrong about something and to explain why.    More information about Magistrate Judge Tafoya's location in Colorado Springs is available on the District's website by clicking [HERE](http://www.cod.uscourts.gov/Portals/0/Documents/PilotProjects/JD4_MJ_Pilot_Program_Adopted.pdf).  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | |      |  |  | | --- | --- | | e  **What Modern Lawyers Can Learn from Lincoln:  An FFA CLE**  By Seth Benezra    The presentation by United States Magistrate Judge Boyd N. Boland (ret.), "What Modern Lawyers Can Learn from Lincoln," on September 13, 2018, was a fascinating presentation on the sixteenth U.S. President's early life and career as a lawyer.    Lincoln had a number of careers in his early years, including as a farmer, rail splitter, boatman, militiaman, clerk, postmaster, and surveyor.  He was also a politician, serving first in the Illinois State Legislature from 1834-1842 and second in the U.S. House of Representatives from 1846-1848.    Lincoln's first exposure to the law occurred in the spring of 1827, when he was just 18 years old.  Young Lincoln was hauled before Squire Samuel Pate, a justice of the peace in Kentucky, for operating a ferryboat without a license.  Lincoln had been seen delivering travelers from the Indiana side to steamers passing along the Ohio River.  John T. Dill, a Kentucky ferryman, claimed the exclusive right to carry passengers across the river at this point, and swore out a warrant leading to the trial of *Commonwealth of Kentucky v. Abraham Lincoln*.    Lincoln admitted that when the Dill ferry was not available he carried passengers from the Indiana shore to steamboats in the middle of the river.  But he pleaded that he had no idea that he was violating the law, and he asked the justice of the peace one question:  how did carrying people to passing steamers in midstream constitute a violation of Dill's right to ferry people across the river?    Squire Pate took down the statute book and read the pertinent provision, which prohibited the unlicensed conveying of persons "over any river or creek" where public ferries exist.  The evidence was not that Lincoln had carried passengers over or across the river, but only to passing steamers in midstream.  Squire Pate dismissed the warrant and suggested that Lincoln "read up a bit on the law."    Lincoln's law career commenced shortly after his political career.  Lincoln's first case, *Hawthorne v. Woodridge*, was litigated in 1836.  Interestingly, the case was litigated almost a full year before Lincoln was admitted to practice law by the state of Illinois on March 1, 1837.    Lincoln was not terribly successful in winning the lawsuits entrusted to him.  For example, in the Illinois Supreme Court, Lincoln appeared in 178 cases.  Lincoln won 96 and lost 81.  There was one case in which Lincoln withdrew from representation.    According to Magistrate Judge Boland, modern lawyers can learn several lessons from Lincoln the lawyer: (1) how to deal with a demanding client; (2) the importance of an adequate filing system; (3) how to respond to hostile correspondence; (4) how to resolve a tough case; and (5) getting paid.    With respect to dealing with a demanding client, Lincoln was irritated by out-of-state clients that wouldn't defer to his judgment.  He resented the quickened pace and impersonal style of lawyering that his corporate clients demanded, and he disliked the loss of autonomy that came with the increased supervision by some of his corporate clients.  According to Magistrate Judge Boland, there is little doubt that Lincoln would not enjoy the pace of a modern legal practice.    One of Lincoln's most difficult clients was S.C. Davis & Co., a St. Louis wholesale merchant that sold goods on credit. During the 1858 Term of Court, Lincoln filed at least 25 lawsuits on S.C. Davis's behalf for amounts ranging from $500 to $10,000.  Although Lincoln was adept at obtaining judgments, he was not particularly successful at executing on real property.    S.C. Davis repeatedly complained to Lincoln about his failure to collect on judgments.   Lincoln was adept at avoiding legal work he did not enjoy.  He simply did not enjoy or did not have the time for the detailed review of public records necessitated by this work.  He even hired an associate to help him. After being subjected to repeated criticism from his client, Lincoln informed S.C. Davis that he did not intend in the future to "follow executions all over the world." Lincoln then fired his client.    With respect to the second issue, Lincoln suffered from an inadequate filing system.  Indeed, Lincoln knew how stressful it could be when a document is misplaced.  Lincoln experienced this problem in 1850 when he wrote to a client, stating:    I am ashamed of not sooner answering your letter . . . .  [W]hen I received the letter I put it in my old hat, and buying a new one the next day the old one was set aside, and so, the letter [was] lost sight of for a time . . . .    William Herndon, Lincoln's last law partner, confirmed that Lincoln regularly stuck documents and correspondence in his stovepipe hat which he referred to as Lincoln's "desk" and "memorandum book."    Magistrate Judge Boland also gave an example of how Lincoln would respond to hostile correspondence.  According to Boland, Lincoln was adept at de-escalating conflict. He maintained a cool professionalism. And when he wrote letters to his clients, he did so anticipating that others might someday read them.  Thus, in one letter responding to an unhappy client, Lincoln wrote among other things that he "entertain[ed] no unkind feelings to you and none of any sort upon the subject, except a sincere regret that I permitted myself to get into such an altercation . . . ."    With respect to the fourth issue - how to resolve a tough case - Lincoln's advice to young lawyers was to discourage litigation wherever possible.  In a letter to young lawyers, he wrote:    Persuade your neighbors to compromise whenever you can.  Point out to them how the nominal winner is often a real loser - - in fees, and expenses and waste of time.  As a peace maker, the lawyer has a superior opportunity of being a good man. There will still be business enough.    Other lessons from Lincoln cited by Magistrate Judge Boland included the following:  (1) don't quibble over trifles - get to the heart of the case; (2) prepare thoroughly - don't assume the judge to whom you are presenting your case will be prepared; and (3) keep your writing brief, simple, and direct.    With respect to the final issue, getting paid, Lincoln sued clients on at least 19 separate occasions to collect his fee. Lincoln's philosophy about determining a fair fee was as follows:    Are or are not the amount of labor, the doubtfulness and difficulty of the question, the degree of success in the result, and the amount of pecuniary interest involved, not merely in the particular case, but covered by the principle decided, and thereby secured, to the client, all proper elements by the custom of the profession, to consider in determining what is a reasonable fee in a given case?    All in all, Lincoln's insights from the world of legal practice in the early-to-mid nineteenth century provide us with tips for our own modern and harried legal practices. Click [HERE](http://static1.1.sqspcdn.com/static/f/3449839/27987511/1536872645250/Lincoln+handout.pdf?token=d05atKZs3FdsoLh4ovQNWa69pSA%3D) for Magistrate Judge Boland's program materials.  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |      |  |  | | --- | --- | | f  **Colorado Goes to the Supreme Court**  By Michael A. Blasie    Colorado attorneys J. Andrew Nathan, Robert Fishman, and Frederick Yarger shared their experiences arguing before the United States Supreme Court in an FFA-sponsored continuing legal education program on August 9, 2018.    Mr. Nathan, an attorney in private practice, argued *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004).  Mr. Fishman, also in private practice, argued *Sebelius v. Cloer*, 569 U.S. 369 (2013).  Mr. Yarger, Colorado's Solicitor General, argued *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission*,138 S.Ct. 1719 (2018); *Texas v. New Mexico and Colorado*, 138 S.Ct. 954 (2018); *Nelson v. Colorado*, 137 S.Ct. 1249 (2017); and *Pena-Rodriguez v. Colorado*, 137 S.Ct. 855 (2017).    As the panel members explained, predictably, the preparation was massive. Unexpectedly, some of the hardest challenges were very non-legal, very human factors.    **Getting to the Court**    The panelists shared their advice on enticing the Court to take a case. As they explained, getting your case to the Court deserves a champagne toast.    When filing a petition for certiorari, addressing the case law factors is not enough. Counsel should add equitable arguments and explain why their cases are better suited for the Court's review than similar ones. Potential ways to distinguish a case are a clean record and the absence of tertiary state law issues.    Another strategy to consider early is amicus briefs. Reach out early. Consider preparing a memorandum for potential amici. For ideas on potential amici, consider government entities-including state governments-and organizations that filed amicus briefs in similar cases. Also consider what role amici can play. The parties' briefs will discuss the law. An amicus brief can add value by discussing the practical effect of a ruling or the role that the organization played in drafting a proposed statute. Some statistics suggest a large number of amicus briefs, or amicus briefs from influential organizations, increase the odds the Court will accept the case.    **Unique Challenges**    Refreshingly, the accomplished panel member practitioners are human. They faced challenges from nervousness, pressure, and other humans.    Some of the panelists received unsolicited legal advice from veteran Court practitioners from across the country. What started as generous offers to devote mountains of free labor and resources to the case evolved into more aggressive offers to take over the case.  There are many examples of first-time attorneys having horrible experiences before the Court. Under these pressures, both private sector panelists had to decide whether their firms should keep the cases, and if so, who would argue them.    Other lawyers were not the only human challenge. Questions and criticisms from commentators and the press can also add stress. For one attorney, the worst part was deciding who would get oral argument tickets. The Court's courtroom has few seats. Family, friends, colleagues, and clients wanted to attend. But each attorney gets a limited number of tickets.    Still, despite this pressure, all agreed that arguing before the Court is a thrill.  Accompanying the thrill was responsibility.  These lawyers took on the pressure of knowing the issue will affect the entire country, wanting to represent the client and their colleagues in the best manner possible, and wanting to tell the client's story and represent the law accurately.    Despite the weight of these responsibilities, none of the attorneys exclusively worked on a Court case. Each of them prepared extensively while still managing other legal, administrative, and personal responsibilities.    **Oral Argument**    The panel agreed oral argument was the best part of the case. They stood in a room seeded with history. Reflecting their personal styles, each panelist prepared for oral argument differently and offered varying advice.    Generally, moot arguments are very helpful. Several organizations with no interest in the case can help. The Georgetown Law Center provides the chance to argue in a replica of the Court's courtroom. The quality of a moot depends on who does the mooting, so choose carefully. A good panel tests you harder than the actual oral argument.    But the effects of a moot argument can vary. Again, the human element comes into play.  Some of the panelists felt demoralized after a particularly hard and aggressive moot. Only later did they realize the benefit from withstanding such aggressive questioning. But a moot only offers the perspective of those doing the mooting. Each attorney had to decide whether to incorporate suggestions and criticism from the moots. One attorney rejected a criticism he received and that rejection aligned with the Court's ruling.    Apart from moot arguments, each attorney prepared in his own style, whether it was outlining, re-reading briefs, or walking around to think. One listened to prior oral arguments to learn when a justice is trying to help or hurt an argument, and what catches the minds of justices.    One unique aspect was preparing for arguing in the most famous courtroom in the country. The courtroom is smaller than most and attorneys are very close to the Justices. Demystifying oral argument proved useful. During preparation each attorney learned how similar argument would be to those in other appellate courts.    Each attorney found different ways to calm the fear leading up to oral argument: jogging, finding comfort in moot arguments, getting to the courthouse early and practicing in an empty room, or watching and listening to other oral arguments.    At oral argument, each attorney took a different approach. One memorized his introduction and brought an outline of five points he needed to make. Another brought a binder with an outline, and summaries of key cases, briefs, and record documents. The third memorized must-make points but not particular language, took nothing to podium, and had an index card with three words on it in his pocket in case of an emergency.    **Editing Briefs**    The panelists agreed that editing-by-committee is not enjoyable, but each relied on other attorneys to comment on draft briefs. A committee is only as strong as its members, so choose them wisely.    Another procedural aspect is printing the briefs. One panelist recommended lining up a printer early to avoid any last-minute hiccups.    **Resources**    The discussion referenced two free resources attorneys can use to improve their advocacy:  the *First Mondays* podcast on the Court, and the online database of Court briefs and arguments, *Oyez.com*.  Materials from this program are available by clicking [HERE](http://static1.1.sqspcdn.com/static/f/3449839/27963411/1533854415637/CO+Goes+to+Supreme+Ct+Materials.pdf?token=GMKbGKI77%2BBY9Ez1lKGAbFHb5wc%3D).  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |      |  |  | | --- | --- | | h  **Colorado's Federal Pro Se Clinic - First Steps**  By Sabra Janko, FPSC Project Attorney/Administrator    Colorado's first Federal Pro Se Clinic is off to a strong start assisting pro se litigants who would be on their own otherwise.  The Clinic is funded by the United States District Court for the District of Colorado and operated by the Colorado Bar Association.  The Clinic operates on the "give a man a fish" approach, empowering pro se litigants to represent themselves by "teaching them to fish," to the extent possible, while recognizing their unique limitations in the complex federal court system.  Our goal is to equip pro se litigants with the tools to navigate the court system.    **Through the Eyes of a Litigant**    *"Toto, I've a feeling we're not in Kansas anymore."*    Many litigants come to the Clinic after having received an order or a motion, not understanding what it says or what to do. They may feel like they have stepped into the Land of Oz, with everything uncertain.  The Judge seems like "the Wizard" - mysterious and unknowable. Opposing counsel seems like the "Wicked Witch of the West."  They search for "Glinda the Good Witch" - pro bono counsel - but for many, she never appears.    The Clinic assists litigants in unraveling the mystery, helping them understand pleadings, motions, and orders.  We also assist litigants in formulating claims for their forms of complaint.  It is not unusual for litigants, without assistance, to submit their complaints in a long narrative about a series of events that have happened in their lives - "the Tornado."  This is because they are expressing their problems in the way that they understand them - as they would explain the problems to a friend.  These life problems are immensely important to them, whether they have legal merit or not.    There is no life experience that prepares those without legal training to think of their problems in terms of "elements" and to express them that way.  Consequently, judges often have difficulty understanding whether the narratives represent viable claims.  However, with the assistance of a claim sheet setting forth the elements of individual claims, a clinical attorney can talk a litigant through the elements in a conversational manner to assist litigants in exploring their relevant facts.  The litigants can take the claim sheets with them to use when drafting their complaints.  This allows litigants to better understand how to frame their life problems in terms of violations of federal law or constitutional provisions, and to separate the legal "wheat" from the "chaff."    Litigants rarely realize the complexity of the federal court system upon initial entry.  They may tend to think of the court system in the simpler sense of a parent trying to resolve a dispute between two children by listening to each child's story and then deciding how best to resolve the dispute.  Yet, the law is much more complicated than that.  No common life experience prepares a person without legal training to procure, produce, and authenticate evidence using formal rules to articulate and prove his or her case.    Our goal is to empower the Pro Se "Tinman" to have a "legal" heart, the Pro Se "Scarecrow" to have a "legal" mind, and the Pro Se "Lion" to have the courage to proceed pro se in the adversarial system, if that is what he or she chooses to do.    **Through the Eyes of the Court**    *"Yes, sir. Yes, your honor.  You see,... a while back, we were walking down the yellow brick road.  And..."*    Judges want to be as fair as possible, but cannot provide legal advice to litigants or act as their advocates.  Additionally, as judges operate under heavy caseloads, their time is a valuable commodity, and they are limited in how much of it they can spend explaining procedures to pro se parties.  The Clinic continues to try to improve the ways that we can take some of the burden of explaining the process off of the judges so that they can spend their time doing what only they can do - evaluating the parties' submissions and evidence and issuing opinions and orders.    **The Benefit to Litigants and the Court**    *"I could while away the hours conferrin' with the flowers, consultin' with the rain. And my head I'd be scratchin . . . ."*    Sometimes when pro se parties and courts interact, both the litigants and the Court end up "scratchin' their heads."  Assistance with better claim articulation benefits both litigants and courts.  Litigants can move further in the litigation process and judges can spend less time sifting through long narratives digging for claims.  Also, help through an explanation of motions and orders alleviates some of judges' burden of having to articulate basic civil procedure to litigants.  Assistance in identifying claims that are not appropriate for federal court points litigants in the right direction to find a solution and reduces the number of actions filed that are outside of federal court jurisdiction.    Magistrate Judge Gordon P. Gallagher, who oversees the District's Pro Se Intake Division, led the charge for the clinic, together with Magistrate Judge Kristen L. Mix.  Judge Gallagher observes:    The Pro Se Intake Division reviews more than three hundred cases per year from non-prisoner pro se filers.  It is of significant aid to the Court to have the ability to recommend that pro se litigants contact the Federal Pro Se Clinic for assistance with their cases.  The Clinic has the capability to help those with cognizable claims to better state their cases, thus avoiding dismissal.   Conversely, the Clinic can provide appropriate direction to litigants who may not have a valid action, or who may be proceeding in the wrong court or prior to exhaustion of a necessary administrative proceeding.   Justice is better served for all when litigants have the legal resources to make informed decisions about their cases.    **Clinic Services**    The Clinic offers limited-scope advice and counsel services in 45-minute appointment settings.  Between June and early October this year, the Clinic assisted 80 litigants and had 148 consultations.  Twenty-eight percent of litigants returned for subsequent appointments; one litigant came back nine times.  The more times that a litigant returns, the more familiar we can become with the case and the more in-depth assistance we can provide.  The Clinic assists litigants across the state of Colorado. Those who live in the Denver metropolitan area are asked to meet in person for the first appointment.  Those who live farther away can schedule telephone consultations.    Assisting litigants is a clinical team comprised of one Project Attorney/Administrator and one part-time paralegal student Intake and Office Coordinator.  As Project Attorney, I knew that the Clinic was making a difference when one litigant said to me:  "With some people I feel like a name, and with some people I feel like a number - and with you, I feel like a name."  Jessica Harner, the Clinic's Intake Coordinator, says: "From their intake through the moment when they are sitting with Sabra discussing their cases, we are fulfilling a very basic need - listening to those who don't feel heard."    Magistrate Judge Mix observes:    It is clear that the pro se litigants who have been seen at the Clinic have received legal advice that would otherwise be unavailable to them.  Judges have noted increased efficiency in cases involving these litigants, which of course means improved access to justice for them and other court users as well.    **Preliminary Statistics of Note**    The top three types of cases seen in the Clinic so far are employment discrimination, civil rights, and Social Security final agency decision appeals.  Initial demographics show that 22% of pro se litigants have an undergraduate degree and some have a graduate degree.  Forty-five percent are unemployed.  About ten percent are advised that they do not have a matter appropriate for federal court filing and are referred elsewhere.    **Sample Clinic Cases**    Title VII Discrimination Claim Assistance    "Calpurnia" (not her actual name), a female, came to us after being terminated from her employment.  She had already submitted a complaint in the form of a long narrative letter explaining a number of matters that dissatisfied her about how her employer had treated her throughout the course of her employment.  She had filed a complaint with the U.S. Equal Employment Opportunity Commission and brought her right to sue letter with her.  Calpurnia had received an order to amend her complaint to more clearly state her claims and requiring her to use the Court's standard complaint form.  Calpurnia said that her employer told her that she had been terminated for breaking a backhoe. However, Calpurnia believed that the termination was because of her gender.  She said that men had broken equipment and were not terminated.  The Project Attorney provided her with a copy of our Title VII claim sheet and walked her through the elements to help her think through and better formulate her claim.  We also went over the Court's employment discrimination complaint form with her to help her understand how to complete it.    Deferral To Administrative Remedy    "Atticus" (again, not his actual name) came to the Clinic to file a case for denial of a naturalization request.  Upon reviewing his paperwork, we learned that he had not provided the agency administrative review board information that it had requested about his criminal record.  The Project Attorney called Catholic Charities, a non-profit association that provides free assistance in immigration matters, and determined that Atticus could reapply at the administrative level, allowing him to submit the missing and critical information in his possession that had not yet been considered.  Therefore, this case was addressed more appropriately to additional administrative action rather than a federal court proceeding.  We assisted Atticus in setting up an appointment with Catholic Charities, and this case was not filed.    **Advisory Committee**    The inaugural Advisory Committee for the Clinic has met three times and is comprised of members from the District, the Colorado Lawyers Committee, Colorado Legal Services, and the Colorado Bar Association.  Members are:  Magistrate Judge Mix; Edward Butler, the District's  Legal Services Officer; Connie Talmage, Colorado Lawyers Committee; attorneys Mark Schwane (Committee Chair), Kenneth Rossman, and Cheyenne Moore; and Maureen "Reenie" Terjak, Colorado Legal Services.    Deserving of a very special mention is Committee Member Kenneth Rossman's firm, Lewis Roca Rothgerber Christie LLP, which obtained, adapted into our District's format and rules, and donated to the Clinic a number of litigant assistance materials that were generously shared by the Federal Pro Se Clinic of the Western Division of the District Court for the Central District of California.  These materials are of tremendous assistance to pro se litigants.    **Moving Full Speed Ahead**    The Advisory Board has formed a "Plain Language" Subcommittee, with Cheyenne Moore as Subcommittee Chair and Edward Butler as District representative, to examine parallel processes for translation of District forms and instructions and litigant assistance materials into language easier for the self-represented litigant to understand.  The plain language process is a fine art, as materials translated from legalese to plain language must be easy to understand, yet retain sufficient legal meaning.    The Clinic has other plans on the horizon as well, such as finalizing a start-to-finish PowerPoint overview of the federal court process to present to pro se litigants informing them of the "big picture" view, as the 45-minute appointment sessions allow for only a much narrower focus. Also ahead is the creation and presentation of a federal court "Unbundled Roadshow" to take limited scope assistance "on the road."  The "show" will be presented by District and Clinic personnel to educate attorneys and judges about federal court limited scope assistance and representation, and to identify volunteer opportunities with the District's Civil Pro Bono Panel and the Clinic.    We are also in the process of launching a volunteer pilot project offering limited scope clinical advice and assistance opportunities, as well as other opportunities such as intake, research, adapting litigant assistance materials to our District, translating litigant assistance materials into "plain language," "help desk" staffing, or pretty much any assistance or skill that a volunteer has to offer. Opportunities are available not only for attorneys, but also for paralegals and others interested in assisting pro se litigants in the federal courts.  Don't forget that Colorado-licensed attorneys can receive CLE credit for pro bono service.  We expect to launch the volunteer program in January of 2019, but are looking for a few "pilot project" volunteers in the interim. If interested, please call Project Attorney Sabra Janko at (303) 380-8786.  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |  |      |  |  | | --- | --- | | i  **Training Benefits of Pro Bono Work**  By Martha Fitzgerald  The American Bar Association's Model Rule of Professional Conduct 6.1 provides that all lawyers "should aspire to render at least (50) hours of pro bono publico legal services per year."  A "substantial majority" of the 50 hours should be provided to (1) "persons of limited means" or (2) "organizations in matters that are designed primarily to address the needs of persons of limited means."  The remainder should be provided for services including to "[i]ndividuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and educational organizations in matters in furtherance of their organizational purposes," where "payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate."  Colorado Rule of Professional Conduct 6.1 mirrors ABA Model Rule 6.1, and in conjunction with Colorado's rule, the Colorado Supreme Court has challenged all law firms to pledge 50 hours of pro bono service per attorney per year.  Further, all Colorado lawyers swear in their Oath of Admission to the bar to "... use my knowledge of the law for the betterment of society and the improvement of the legal system; I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed."  In keeping with the ABA's guidance and the Colorado Supreme Court's challenge, the Oath of Admission, and the Colorado rules of ethics, many individual lawyers and firms are consistent in their dedication and commitment to providing pro bono services to the community.  It goes without saying that those services are greatly needed and appreciated by underserved and vulnerable Coloradoans, including veterans, the elderly poor, disabled, children, families facing eviction, and many others.  But pro bono representation has dual benefits:  not only are clients helped, but young lawyers undertaking pro bono services also have the opportunity to improve their skills and hone technical expertise.  Law firms are well aware of studies showing that excellent associates are less likely to depart when they feel not only that their work is meaningful, but also that they are steadily developing professional competence.  Law firms with robust pro bono programs know that the programs foster happier lawyers, and they use the pro bono work as a mechanism for training.  **Litigation Training Benefits**  Litigation associates, especially at lower levels, are often called upon to serve support functions to a team involving spot research or investigations, tedious document review and coding, drafting discovery, and so forth.  Although not by design, the associate role is therefore often necessarily fragmented.  The chance to conceive of a global case offense or defense and lead or participate in a trial team may not be an opportunity which arises until years into a career.  When litigation associates have such experience early, they gain confidence in their management and standup skills.  One way for firms to provide hearing and trial experience is to partner with a judicial district that allows placement of litigation associates in municipal, county, or state district courts as prosecutors.  Such programs are often established so that associates rotate in and out of a given courtroom for two to three months at a time.  The ability to take advantage of such an internship can be a turning point for a young litigator.  One litigation associate interviewed served for three months in a county court, and reported:  The fact that my firm allowed me to absent myself from the Litigation Department for three months to work at county court as a prosecutor was extremely important to me as a developing litigator. Before the experience, I had done a few hearings in federal court but spent most of my time, as do most associates, in fact investigation, legal research and writing. I felt I was progressing well in that arena but was not sure if or when I would ever get the chance to participate in a trial.  That all changed very quickly when I went to county court.  Not only did I have many jury trials, but maybe most important, I learned I could think on my feet in open court.  The experience gave me the confidence I needed that I could pivot quickly and respond and adjust my presentation and questions in later trials, when the inevitable unexpected events occurred.  I will always be grateful for the opportunity the 'lend a prosecutor' program afforded me.  In order to give associates or young partners valuable federal court experience, including trial, firms may wish to become members of the United States District Court for the District of Colorado's Civil Pro Bono Panel program.  The Panel is composed of attorneys, firms, and other legal organizations whose attorneys are willing to represent individuals of limited financial means (plaintiffs or defendants) in civil matters when requested by the Court.  Panel participants can specify how many cases an individual or firm will accept per year, and if a law firm joins the program, it can assign to individual cases it accepts any attorney or attorneys from within the firm that it chooses, as long as the attorneys are members of the District bar and in good standing.  The Application Form to become a Panel member, whether as a firm or individual, can be found through a link to the Forms page on the District's website.  Applications may be mailed to the Clerk of the Court, United States District Court, Attn: Edward Butler, Legal Officer, Alfred A. Arraj U.S. Courthouse Annex, 901 19th Street, Denver, Colorado 80294, or may be submitted as pdf documents by e-mail to: *COD\_ProBonoPanel@cod.uscourts.gov*.  Among the approximately 100 types of cases or causes of action available for representation by  Panel members are international child custody cases under the Uniform Prevention of Parental Kidnapping provision of the Hague Convention; civil rights, consumer rights, and credit reporting cases; matters involving employment discrimination claims; Privacy Act cases; administrative appeals; and constitutional questions.  Due to the variety of types of available matters, pro bono work through the Panel not only provides valuable standup experience, but further allows associates to take on work in specific subject matter areas.  The experience of two litigation associates who recently agreed to take a Panel defense side employment discrimination case set for trial (to begin in only two months) serves as an example of how firms can do good while also amplifying associate training.  Discovery had long been complete, and the plaintiff's counsel had been on the matter for over two years.  Despite the odds, the associates obtained a jury trial victory.  Their firm's employment and litigation partners helped the lawyers prepare for trial by conducting a mock trial, including having various partners and staff serve as the judge, jury, and witnesses.  The two prepared and gave their opening statements and closing arguments, practiced direct and cross-examination, and obtained valuable feedback, all in the context of a real case.  At trial, they were supervised but ran the defense themselves, from voir dire to closing.  At the end of the experience, they were able to participate in a give-and-take with the jury which they reported as very enlightening.  As one of the young lawyers stated:    Having the opportunity to conduct a 4-day trial in federal court as an associate was a truly valuable and meaningful experience for me.  Although I had participated in NITA and NITA-like programs, actually getting up before a live judge and jury not only made me feel like a trial lawyer, it hopefully began the process of converting me to being one.  I now understand the incredible level of hard work, attention to detail, knowledge of the Rules and sensitivity to human nature, and actual physical stamina it takes to lead a trial team.  I will always have gratitude to my firm for affording me this opportunity; I am certain it has made me a better litigator, and inspired me to work even harder to develop trial skills.  **Transactional Training Benefits**  Training through pro bono work is not only for litigators, however.  Every day there is an immense amount of pro bono work undertaken by transactional attorneys in the real estate and corporate spheres.  Much of the work is for 501(c)(3) organizations, falling under the ABA's description of groups seeking to protect and secure civil rights and organizations devoted to educational, civic, environmental, and poverty law issues.  As is true with associates in all pro bono experiences, the transactional associate must be supervised in the substantive area of the law in which she or he takes on a representation.  But as with litigation, the experience allows the associate to learn by doing.  Consider this comment by a corporate associate who was interviewed for this article:    The firm's pro bono program has given me the opportunity to work on some of the most interesting and complex matters in my legal career. This year, for instance, a pro-bono matter was the most complex transaction that I took the lead on.  The matter was the first transaction in which I substantively negotiated all loan documents and provided me insight into a niche area of finance I had not been exposed to before.  Since our firm would never sacrifice quality in work product for a pro-bono client, I've been able to gain technical expertise with reduced time pressure and billing sensitivity through additional research and background reading while I complete pro-bono projects.  And a mid-level real estate associate reported:  As a real estate attorney, the first transactions where I took ownership over the entire process, from drafting purchase and sale agreements to reviewing loan documents and assisting with land use entitlements, were on behalf of pro bono clients.  As a result of having the opportunity to push myself into new transaction types and a higher level of responsibility, my work with pro bono clients has been instrumental in developing my technical legal expertise. In addition to substantive legal work, in working with pro bono clients, I've also had my first opportunities to be a central advisor to clients, which has developed my oral communication and service skills.  **Government Relations Training Benefits**  And although not often an area of practice associated with pro bono work and training, government relations associates can indeed obtain valuable training and experience through volunteering their services to organizations that serve the public and country as a whole.  The associate who commented below was widely credited with literally saving the National Endowment for the Arts through his tireless efforts.  He not only received a special award of appreciation for his pro bono work from the Americans for the Arts, but also made significant contacts (and gained admirers), which assisted in building his professional network.  The pro bono work I've done with my firm has been immensely rewarding and beneficial to my overall lobbying and advocacy work.  The work I've done on behalf of Americans for the Arts, for example, has led me to deepen my understanding of the federal appropriations process, and to build a team across the firm comprised of fellow policy professionals and attorneys to help achieve the goals set forth at the outset of our engagement with them. We've succeeded in not only saving the National Endowment for the Arts, but increasing its federal funding.  This work has also led me to broaden and deepen my relationships with key appropriators, staff members, and other partners and potential clients.  The ways junior lawyers can build skills and make significant contacts are immense.  Where they often fill the "second chair" or "third chair" roles in a case or deal, in properly-supervised pro bono work, associates can gain significant experience and confidence, developing not only technical but communication, negotiation, and counseling skills.  As their level of responsibility increases, associates "bank" experiences through pro bono efforts that they can draw and reflect upon as they grow as attorneys and develop professional competence.  *Martha Fitzgerald is the Pro Bono Partner for Brownstein Hyatt Farber Schreck.*  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | \_ |      |  |  | | --- | --- | | j  **The Civil Pro Bono Panel:  Our Experience Litigating a Pro Bono Case**  By Lauren Carboni and Quincy Stott    By the time we entered our appearances on behalf of our pro bono client in a pending case, she desperately needed help.  The U.S. District Court for the District of Colorado's Civil Pro Bono Panel provided that assistance. It also allowed us to have the distinct pleasure of assisting our client in resolving her Section 1983 claims.  We enjoyed our experience stepping out of the relative comfort of our practice areas (healthcare and government contracts, respectively).    Our client was a pro se litigant suing four police officers in a Section 1983 excessive force case.  Her first set of counsel filed a complaint in June 2013, but withdrew in April 2014 before much had happened in the case.  Her second counsel entered an appearance that June, but withdrew by September 2014.  The client carried on as best she could, but the court granted the defendants' motion for summary judgment in August 2015 based on qualified immunity.    Nevertheless, the client persisted.  She appealed to the Tenth Circuit.  Remarkably, the Tenth Circuit partially ruled in her favor, reversing the order dismissing two of the individual defendants.  With the case remanded to the District Court, Magistrate Judge Kristen L. Mix issued an appointment order *sua sponte*.  The order determined that the client merited appointment of counsel drawn from the Civil Pro Bono Panel based on the following factors:   * the nature and complexity of the action; * the potential merit of the claims; * the demonstrated inability of the client to retain counsel by other means; and * the degree to which the interests of justice would be served by appointment of counsel, including the benefit the District Court would derive from the assistance of the appointed counsel.   The District implements Civil Pro Bono Panel attorney representation via D.C.COLO.LAttyR 15, entitled Civil Pro Bono Representation.  Edward Butler, the District's Legal Officer, administers the program.  The Civil Pro Bono Panel seeks volunteer attorneys to represent individuals of limited financial means in civil matters when requested by the District Court. Lino Lipinskyde Orlov, a litigation partner at our firm,is a member of the Panel. Due to his prior Section 1983 experience, the District Court selected Lino to take on the client's representation. Thanks to Lino's encouragement and support, as well as support offered by our firm's Denver Office Managing Partner Mark Meagher, we volunteered to take the lead on the case and entered our appearances in December 2016.    Our representation in the case faced numerous obstacles from the start.  The events giving rise to the case occurred nearly five years before we were involved.  The only witnesses were the client and four police officers.  Intense factual disputes about what actually occurred during the client's interaction with the police officers permeated the entire case.  No video or audio recordings supporting either side existed.  Our client had an extensive medical history, and proving causation would be a challenge.  Defendants had two experts; we had none.  Discovery, of course, had also closed.  We got to work.    Fortunately, the District Court granted our motion to reopen discovery.  With the help of our colleague Britton Nohe-Braun, we deposed several police officers, identified and prepared a medical expert to establish causation for a portion of our client's injuries, and conducted written discovery.  We interviewed the client's family and friends to establish key facts to build our case.  We defended depositions.  All of these efforts were geared towards trial.    Based on the nature of our client's injuries and her goals for the case, however, it became apparent that a settlement would be the preferable resolution.  Defendants agreed.  Magistrate Judge Mix scheduled a settlement conference for January 2018. That afternoon, the Magistrate Judge shuttled between the parties, providing her candid assessment of the case and feedback on offers and counteroffers.  Most importantly, Magistrate Judge Mix really listened and helped ensure our client felt she "had her day in court" to share her perspective on what transpired with the police officers.  The Magistrate Judge demonstrated masterful skill in bringing the parties together and helping us resolve the case.    At the end of April 2018 - over five years after our client began her journey in the case - the parties jointly moved for dismissal of the matter in its entirety, with prejudice. The District Court promptly granted the motion.    Over the course of our representation of our client, we and our supportive colleagues at Dentons US LLP spent nearly 1,100 hours on the case.  Although the case required an enormous commitment of time and resources, it was a pleasure assisting our client in seeking justice and providing her with the opportunity to be heard.    That's what the Civil Pro Bono Panel is all about:  promoting justice; helping the District Court and civil pro se litigants communicate with and hear each other; and providing volunteer attorneys with opportunities to serve the community.  If you have not yet joined the Civil Pro Bono Panel and accepted a case, we highly recommend you do so.  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |      |  |  | | --- | --- | | k |  | | **FACULTY OF FEDERAL ADVOCATES**  **UPCOMING PROGRAMS**  **Sign-up on our website:**  [**www.facultyfederaladvocates.org**](http://www.facultyfederaladvocates.org)  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **Friday, November 16, 2018**  1:30 - 5 p.m.  **FFA Bankruptcy Bench-Bar Roundtable**  Westin Denver Downtown   |  | | --- | | Please join us for an afternoon of open  discussion  of  bankruptcy law and practice in Colorado. This  will  be  a  discussion  group format,  and  there  will  be  no panelists or speakers! As  an  attendee  at  this  program, YOU  will  participate  in  four successive  discussion  groups  on wide - ranging  issues  relating  to bankruptcy  law  and  practice  in the  District  of  Colorado.  Each discussion group  will  include approximately  ten  practitioners, two  moderators,  and  a current U.S. Bankruptcy Judge.  Discussion participants will include: The Honorable Michael E. Romero, Chief Judge; The Honorable Elizabeth E. Brown; The Honorable Thomas B. McNamara; The Honorable Cathleen D. Parker; The Honorable Joseph G. Rosania, Jr.; and The Honorable Kimberley H. Tyson. |   Light refreshments will be served. Please join us for a cash bar social following the event.  Approved for 4 general Credits.  \*$100.00 for FFA Members \*$120.00 for Non-Members  Click[HERE](https://facultyfederaladvocates.wufoo.com/forms/w12azg7a19rtttu/)to register - **space is filling up!**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **Wednesday, December 5, 2018**  **FFA ANNUAL RECEPTION**    5 - 7 p.m. The Clocktower Cabaret 1601 Arapahoe Street, Lower Level  Hors d'oeurvres and one complimentary beverage provided.  The event is free of charge but RSVPs are required due to limited space.  \*Click [HERE](https://facultyfederaladvocates.wufoo.com/forms/w1tzvl2g1qc0xrg/)to register for the Annual Reception\*  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **Tuesday, January 29, 2019**  **2018 TENTH CIRCUIT REVIEW: CRIMINAL**  John Arceci of the Federal Public Defenders Office and Karl Schock of the U.S. Attorney's Office  12 noon - 1:15 p.m.  Alfred A. Arraj Federal Courthouse, Jury Assembly Room  2 general CLE credits approved  Programs reviewing Supreme Court terms abound, but in Colorado, Tenth Circuit decisions are equally important to federal criminal practice. Join John Arceci of the Federal Public Defenders Office and Karl Schock of the U.S. Attorney's Office for a discussion of the criminal decisions issued by the Tenth Circuit in 2018 that you need to know.  \*Click  [HERE](https://facultyfederaladvocates.wufoo.com/forms/seig3kc0kqufyd/) to register for the January 29, 2019 program\*    \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **HOLD THE DATES:**  **Friday March 8, 2019**  **MAGISTRATE JUDGE REID NEUREITER**  12 noon - 1:15 p.m.  Alfred A. Arraj Federal Courthouse, Jury Assembly Room  2 general CLE credits will be requested  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **Thursday, March 21, 2019**  **MAGISTRATE JUDGE KATO CREWS**  12 noon - 1:15 p.m.  Alfred A. Arraj Federal Courthouse, Jury Assembly Room  2 general CLE credits will be requested   \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **Friday, May 3, 2019**  **FFA FORUM**    1 - 5 p.m. Westin Denver Downtown  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Watch the FFA website and your Inbox for program and registration information.  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**    **Contact**[**dana@facultyfederaladvocates.org**](mailto:dana@facultyfederaladvocates.org)**for more information or to register for any of these programs.**  **Or register on-line:**  [**www.facultyfederaladvocates.org**](http://www.facultyfederaladvocates.org) | |      |  | | --- | | l  **FFA Contact Information**  Faculty of Federal Advocates  3700 Quebec Street #100-389  Denver, CO 80207-1639  720-667-6049  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | | | |