



2022 U.S. District Court – Civil Pro Bono Panel Annual Report



Great Seal of the United States by William Joseph (top); *Federal Services* by Edgar Britton (bottom) – Byron G. Rogers Federal Building & Courthouse;
photos courtesy the Carol Highsmith Archive, Library of Congress

U.S. District Court - District of Colorado

Presented by the [Standing Committee on Pro Se Litigation](#) of the U.S. District Court

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Overview

In 2017 the U.S. District Court’s access to justice focused committees conducted an internal, year-long survey of pro se litigants to determine the most critical needs of unrepresented parties. As expected, “representation” was the most common answer to the survey question “What would have helped you during your case?” The responses including the following:

- “To have a court-appointed attorney represent me and protect my interest in the case; legal representation!”
- “Pro bono representation, but my own resources (time more than money) were too limited to proceed..”
- “Access to a pro-bono attorney to help understand 1983 and what to do or not to do before filing the complaint.”
- “A lawyer.”

The repeated call for representation and effective advocacy reinforced at that time – and continues to this day – the importance and critical function of the court’s Civil Pro Bono Panel program. Since the program’s inception in 2013 as a pilot project, to its codification as a local rule and part of the U.S. District Court’s overall mission to ensure equal access to justice, members of the bar and the Colorado federal legal community are answering the 2017 Survey respondents’ call for representation.

The 2022 Civil Pro Bono Panel Annual Report presents perspectives from actual pro bono practitioners in an effort to offer to the Court and the public an insider view of what’s entailed in taking a pro bono case in federal court. This report also conveys a message of thanks from an unrepresented party who had pro bono representation, and how it leveled the playing field in her lawsuit.

Practitioner and Litigant Perspectives in 2022

(The views of the attorneys and party below do not represent the views of the U.S. District Court for the District of Colorado.)

Attorney Insight on Civil Pro Bono Panel Volunteer Experiences

by Clinton Burke, Esq.

I am happy to share this “Attorney Insight” of my experiences volunteering for the USDC Civil Pro Bono Panel after receiving a request for submission from court staff. At that moment, I was concerned about my impending hip surgery. My past experiences with pro bono cases were far from the center of my mind, but somehow Panel Administrators Ed Butler’s and Ashley Sheehan’s request and my second hip surgery seemed to fit well-enough together.

I would like to share a conversation I had with my nurse on the day of my second hip surgery. In those early morning hours, my nurse was my constant companion. It did not take long for us to strike up a friendly conversation, and as is often the case when you meet someone new for the first time, we discussed our occupations. I broke the ice by asking my nurse whether she agreed with a mentor of mine’s opinion that nurses make the best jurors, since nurses tend to be active listeners, motivated helpers, and professional—all qualities which make good prospective jurors.

My nurse was much more curious about me. “Why did you want to be an attorney?” she asked. Maybe it was nerves or medication, but my tongue flowed freely, paraphrased into something like:

“At an early age I experienced high conflict in my family, and ever since, I’ve tried to forge an identity based on morality and ethics. As an idealistic kid, I imagined the legal profession was the career of choice to lead a life of integrity, but the biggest lesson law has taught me so far is human nature doesn’t change for the better simply because you earn slips of paper like a law degree and a license to practice law.

My first year or so in Colorado, most of the work I could find was as a volunteer ‘pro bono’ lawyer for people who cannot afford an attorney. Whatever my pro bono clients’ cases, they all seemed to share a difficult life scarred by trauma. The cases were always difficult to win. Sometimes, there likely was no case. For some pro bono clients, life was an endless struggle, and everyone in the legal system, even me, was ‘in it for themselves’ and an enemy.

While my childhood dream for morality and ethics never wavered, I learned in those early years as a pro bono attorney there were limits to what I could do to help. Sometimes all I could do was zealously advocate for a pro bono client, knowing in the big picture the law would not solve their larger life challenges. I also realized that sometimes the best I could do was be there for them as a human being when no one else would.



Clinton Burke, Esq.

I still do not have a satisfying answer for how to best handle difficult pro bono cases. But one thing I have come to terms with is that so long as I know I did help in some way, no matter how slight or insignificant, that itself is an unqualified good. To help someone with the expectation of receiving nothing in return is a big step towards moral development.”

My nurse replied, “That is exactly right. You do the best can. If you know you helped, the rest doesn’t matter.”

I never saw my nurse again, as the anesthesia team took over and I was whisked away to surgery, but the confession I shared still sticks with me. I wonder now where the words came from. Was it the medication? My nerves before surgery? I tend to believe the answer lies deeper somewhere else.

In my almost six years as an attorney, I have defended a single working mom against a Colorado Works wrongful termination hearing; a breast cancer patient against a Medicare Secondary Payer Overpayment Demand; a tenant seeking a reasonable accommodation under the Fair Housing Act; and a few other pro bono cases. Of all of them, the most successful were the ones I co-counseled with **Deborah Yim** of **Primera Law Group** for the **USDC Civil Pro Bono Panel**.

Ms. Yim’s and my pro bono cases were employment and civil rights matters. Prior to us getting involved, each of our pro bono clients spent months, if not years, exhausting their administrative remedies at the Equal Employment Opportunity Commission to reach the district court. I am proud of the work Ms. Yim and I did as volunteer attorneys for the USDC Civil Pro Bono Panel, but I will always be most impressed by the resiliency of our pro bono clients.

For some pro bono practice pointers, I offer the following “**Attorney Insights**” to future volunteer attorneys for the USDC Civil Pro Bono Panel:

- Communicate to your client clearly and consistently that the scope of legal representation is limited to the case at issue, preferably both in writing and while speaking in confidence with your client;
- Explain for your client the importance of the attorney client privilege;
- Mirror for your client the way in which you expect everyone in the case to be treated going forward, i.e., respectfully;
- In compliance with our Colorado Rules of Professional Conduct, seek funds as appropriate from the USDC Civil Pro Bono Panel for discovery and other anticipated litigation costs;
- Provide your client with consistent legal advice on the strengths and weaknesses of the case.

It is my sincere wish that all of us follow the path towards justice, whether we find ourselves hobbled by crutches or unable to afford an attorney. The USDC Civil Pro Bono Panel is a worthy pro bono platform. I remain humbled by my experiences; and what an “Attorney Insight” it is, like my nurse said, to “do the best you can. If you know you helped, the rest doesn’t matter.”

Successful Settlement of Excessive Force/Rehabilitation Act Claim

by Alan Schindler, Esq. and Josh Bugos, Esq.

In July 2022, two Denver attorneys, **Alan Schindler** from **Greenspoon Marder LLP**, and **Josh Bugos** from **Condit Csajaghy Bugos Gray LLC**, secured a five-figure settlement for a pro bono client who brought excessive force and rehabilitation act claims against the City and County of Denver and multiple Denver Sheriff Department personnel.

The excessive force claim arose from an incident occurring in the Denver County Jail on December 14, 2016, while the client was a pre-trial detainee there. The client has lived with severe hearing impairment since a young age, and so he also brought claims against the City and County of Denver asserting that the City discriminated against him on the basis of his disability. The client litigated the case pro se for several years until the Court granted his motion for appointment of counsel. Josh Bugos was originally appointed to serve as counsel for the client. However, given the tremendous burden of handling a complex civil rights case alone, Mr. Bugos requested assistance from another attorney on the Pro Bono Panel. Mr. Schindler stepped in, and from there the two attorneys immediately formed a strong working bond and friendship, beginning with a trip to visit the client at the Fremont Correctional Facility near Canon City, Colorado.



Alan Schindler, Esq.

When counsel obtained the case, the operative complaint (which had been amended multiple times) contained numerous claims levied against dozens of individual defendants. The first step therefore, was gathering as much information as available, and sorting out which claims had merit, and which defendants had potential liability. To assist with that task, and to assist with meeting the client's burden of proof on the excessive force claim, counsel retained an expert in the area of police tactics and use of force. Convincing the client to dismiss certain claims and release certain defendants was a challenge, but ultimately the client listened to Mr. Bugos, Mr. Schindler and the expert's advice that quality is better than quantity.

After streamlining the Complaint, the parties attempted to steer the case towards a settlement conference prior to the dispositive motions deadline, but the parties were just too far apart at that time. Mr. Bugos and Mr. Schindler thereafter employed a divide and conquer approach to the litigation, splitting up depositions and responsibilities in drafting a response to the Defendants' motions for summary judgment.

The biggest break in the case occurred in March 2022, when the Court entered its order granting in part and denying in part the Defendants' Motions for Summary Judgment. That order left the client with two surviving claims—an excessive force claim against one individual defendant (claims against two other defendants were dismissed), and a Rehabilitation Act claim against the City and County of Denver. On these surviving claims, the Court set the case for trial in the fall of 2022.



Josh Bugos, Esq.

This time, with trial on the horizon, and a positive order from the Court on the Motion for Summary Judgment in hand, the City agreed to finally sit down for a settlement conference before Magistrate Judge Mix. The settlement conference stretched into the late afternoon, but with the persistence of Magistrate Judge Mix and Mr. Bugos, the parties were able to reach a favorable settlement.

Throughout this case, Mr. Bugos and Mr. Schindler travelled through many peaks and valleys with the client. The client had a strong will, and equally strong conviction in the righteousness of his case. At the same time, his injuries were not obvious—no broken bones or surgeries needed—making it difficult to prove damages at a seven-figure value, which was the client’s original perception of the case. Nonetheless, when the dust settled, the client was thankful for the assistance of Mr. Bugos and Mr. Schindler and content with the resolution that he worked so hard and for so long to obtain. And the two lawyers who did not know each other prior to working on this case have become good friends since.

Jury Trial in a Case with Pro Bono Panel Lawyers on Both Sides of the “V.” by Joshua Weiss, Esq., of Brownstein Hyatt Farber Schreck LLP and Thomas J. Arckey, Esq. of Arckey & Associates, LLC (reprinted from the Fall 2020 “Panel Periodical” newsletter; all issues available on the U.S. District Court website, [Civil Pro Bono Panel page](#))

In *Carosella v. One World Translation*, Case No.16-cv-0805-WJM-KMT, the U.S. District Court for the District of Colorado’s Civil Pro Bono Panel had its first trial in which both sides of the case were represented by Pro Bono Panel attorneys. The Plaintiff, Cynthia Carosella, was represented by **Thomas J. Arckey** and **Allison L. Derschang** of **Arckey & Associates, LLC**; the Defendant, One World Translation & Associations, Inc., was represented at trial by **Joshua A. Weiss** and **Craig M. Finger** of **Brownstein Hyatt Farber Schreck LLP**. The Honorable William J. Martínez presided over the jury trial.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge William J. Martínez

Civil Action No. 16-cv-0805-WJM-KMT

CYNTHIA CAROSELLA,
Plaintiff,

v.

ONE WORLD TRANSLATION & ASSOCIATES, INC.,
Defendant.

VERDICT FORM

We, the jury, upon our oaths, find as state as follows:

Ms. Carosella had previously served as head of human resources at One World Translation, and she alleged a series of complicated allegations against her former employer, a company also run by a woman. The plaintiff’s claims included sex discrimination, retaliation, a violation of the Equal Pay Act, libel, and intentional infliction of emotional distress. In the years during which the matter was pending, the parties had engaged in document discovery, depositions, and settlement discussions.



Tom Arckey, Esq.

For Messrs. Weiss and Finger, this Panel representation provided important experience to two associates for whom cases rarely proceed to trial. Indeed, having only been retained shortly before trial, this case gave both associate attorneys an opportunity to fully conduct a four-day federal jury trial. [For Plaintiff’s counsel as well, this trial provided an important opportunity to attempt to vindicate the Plaintiff’s claims while simultaneously doing so in a manner by which

the Plaintiff would not have herself been able to afford legal representation.]

The case was not without challenges for all of the Panel attorneys involved. The Defendant company is a small business, and conducting discovery posed various practical and logistical challenges along the way. Given that Defendant's counsel were not retained until shortly before trial, additional challenges arose in both preparing for trial on short notice, but doing so with a lengthy and unfamiliar record of documents, deposition transcripts, and prior motions.

In the end, the Plaintiff prevailed on a subset of her defamation claims, but the Defendant was found to have not engaged in any improper conduct with respect to the Plaintiff's employment law claims. All of the Panel attorneys involved found this case to be a satisfying professional challenge. And as the first Panel trial in which both sides were represented by pro bono counsel, the parties and the Court were pleased to see zealous advocacy in such a professional manner. Also, because the vast majority of civil cases resolve before trial, experiences of having a trial to a jury are few and far between. The opportunity provided all counsel the ability to sharpen valuable trial skills.



Joshua Weiss, Esq.

A Message of Thanks by Gabriela Wright, Pro Se Party

To Whom it May Concern:

Recently I was able receive what I considered to be justice in a lawsuit I have worked on for quite some time. I began working on this lawsuit by myself. I began the lawsuit with very kind and knowledgeable help from the prose clinic [The [Federal Pro Se Clinic](#)].

When it became too much for me to handle I petitioned help of a pro bono lawyer. I was eventually able to receive the help of a great attorney.

I did not have the knowledge or finances to have completed this on my own.

I am very grateful to this fine organization and the judges and attorneys who helped me.

Sincerely,

Gabriela

*(Editor's note: Ms. Gabriela Wright asserted Title VII discrimination and retaliation claims (national origin) against her employer. Civil Pro Bono Panel members **David Lichtenstein** and **Matthew Molinaro** of **The Law Office of David Lichtenstein LLC** were selected as counsel, accepted her case, and reached an agreement with the employer to voluntarily dismiss.)*

STIPULATION FOR DISMISSAL WITH PREJUDICE

2022 Faculty of Federal Advocates Pro Bono Training Seminars

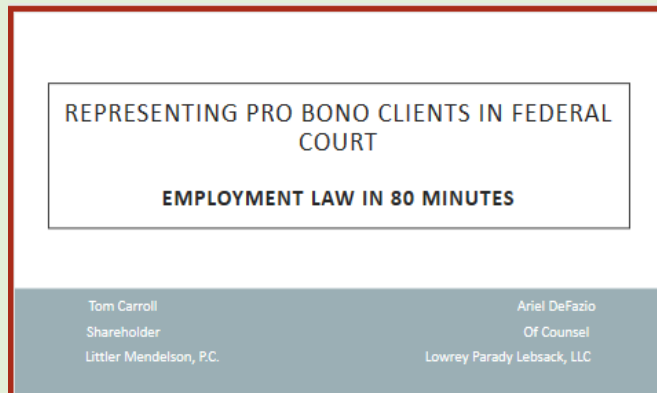
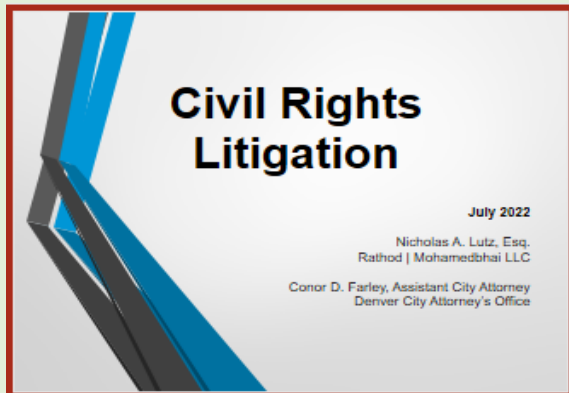
The past year witnessed an upsurge in training seminars hosted by the Faculty of Federal Advocates, the U.S District Court’s supporting partner of the Civil Pro Bono Panel. Of particular benefit were the in-person and webinar CLE programs that presented excellent discussions and practice tips for existing or prospective pro bono counsel. These programs were recorded and are available on the FFA [“Pro Bono Programs”](#) webpage.

“Representing Pro Bono Clients in Federal Court, Part 1: Civil Rights & Employment Law”

July 22, 2022

[ONLINE ONLY - Representing Pro Bono Clients in Federal Court \(Part 1\)](#)

– Special thanks to presenters Ariel DeFazio, Tom Carroll, Nicholas Lutz, Conor Farley, Luke McConnell, Roderick O’Dorisio, and Kyle Holter

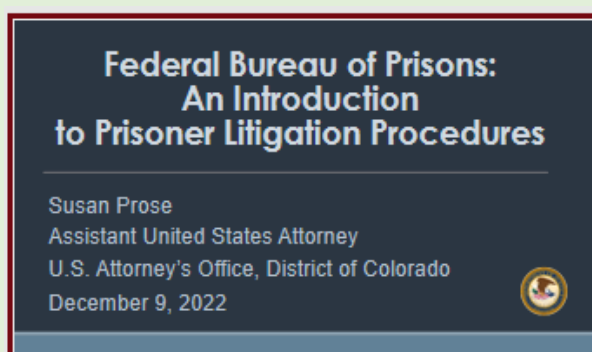
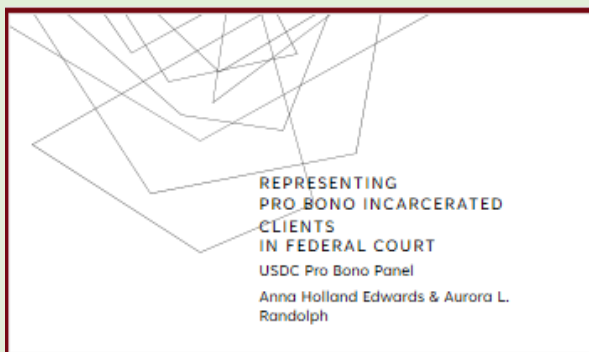


“Representing Pro Bono Prisoner Clients in Federal Court (Part 2): Incarcerated Clients”

December 09, 2022

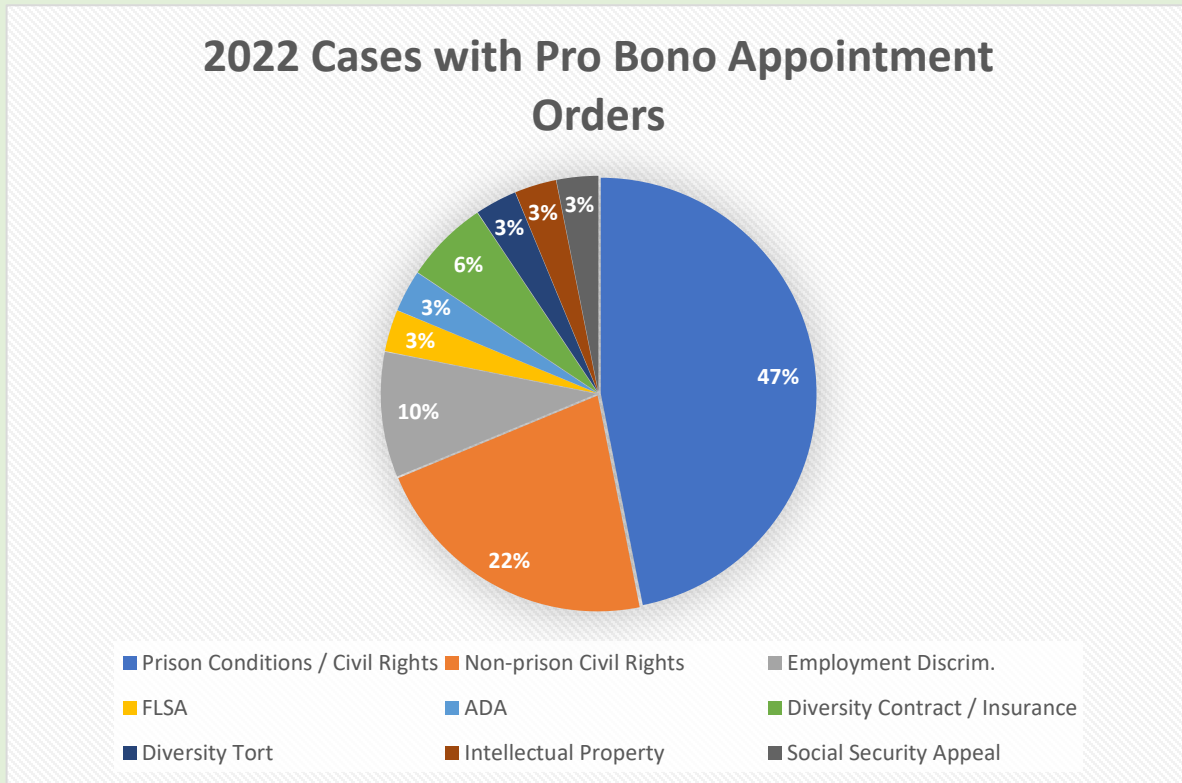
[Representing Pro Bono Prisoner Clients in Federal Court \(Part 2\)](#)

– Special thanks to presenters Anna Holland-Edwards, Aurora Randolph, Nicole Gellar, Susan Prose, Dan Shaffer, and Josh Bugos

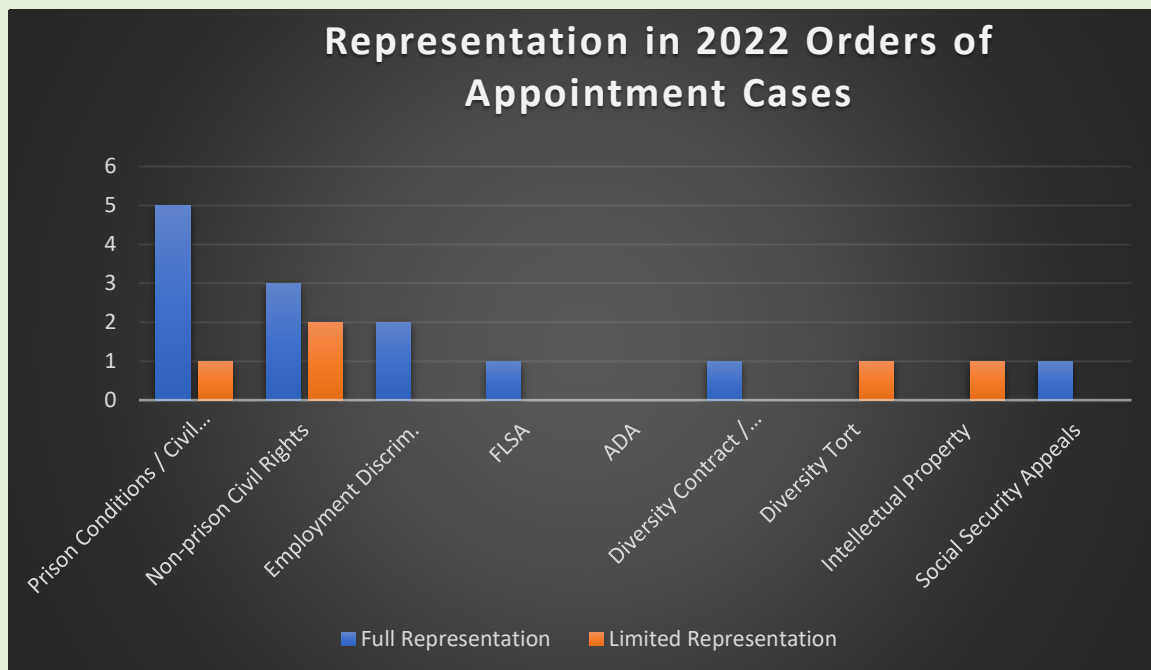


2022 Pro Bono Case Data

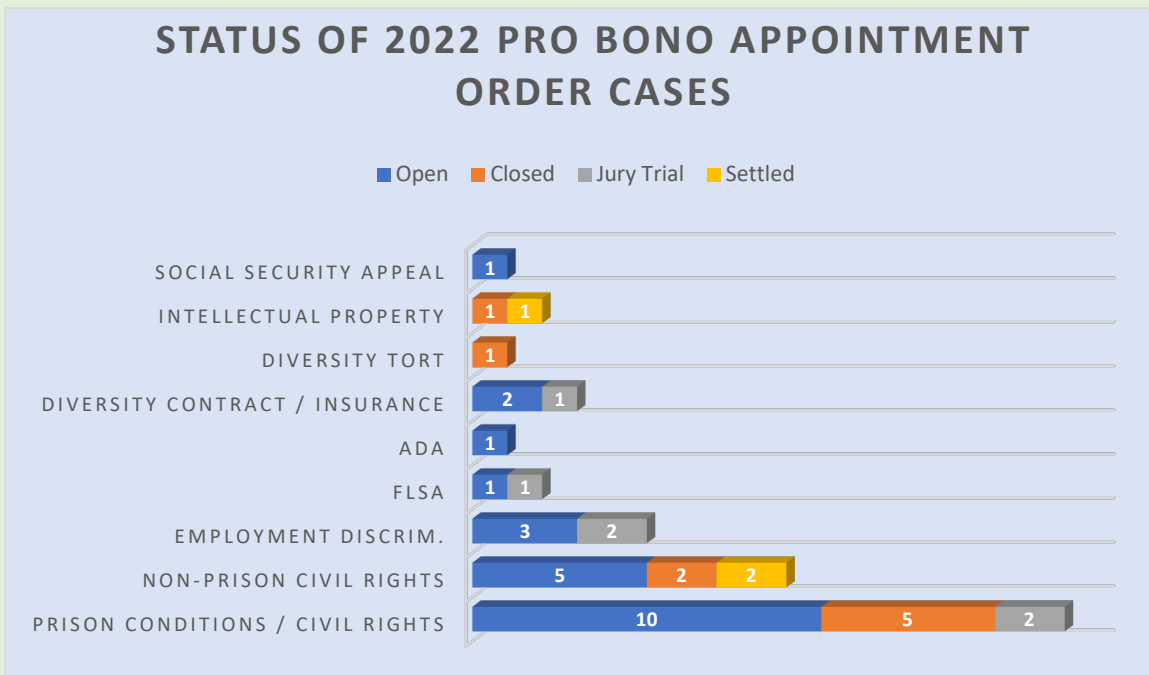
In 2022 the U.S. District Court entered orders in 32 civil cases appointing pro bono counsel.



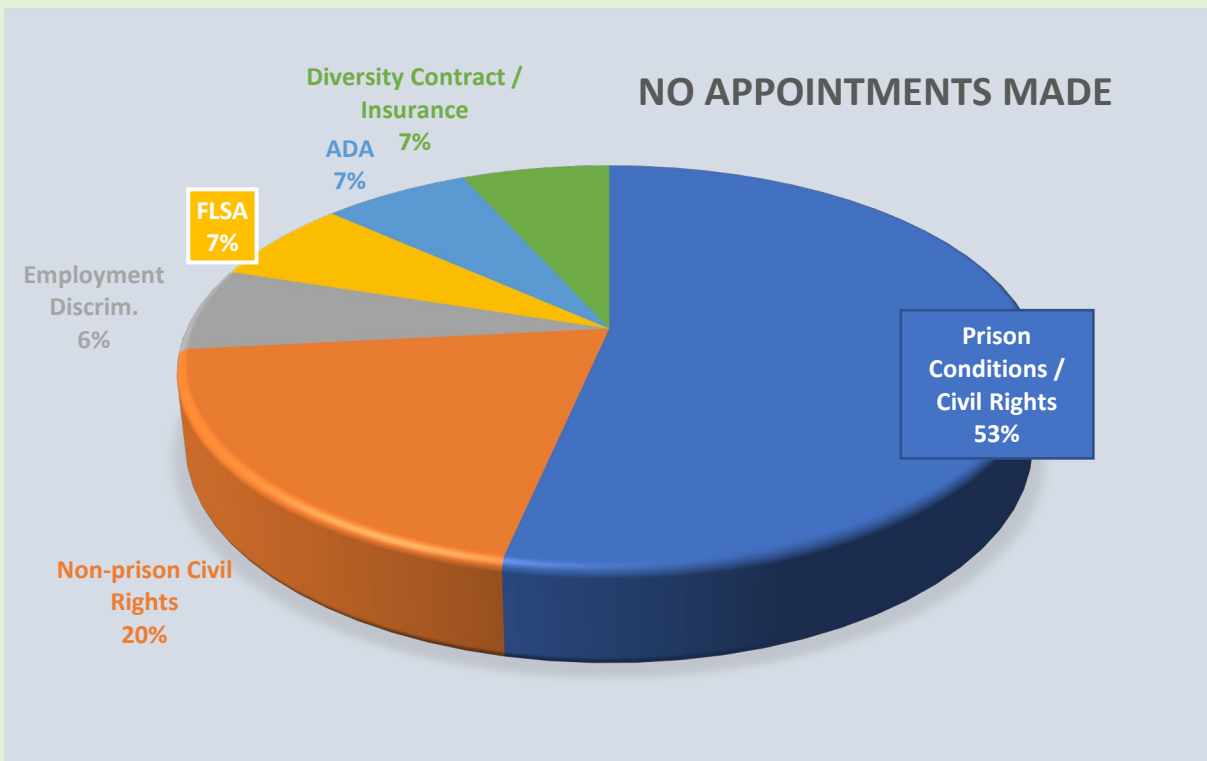
Of the 32 cases, a total of 18 Civil Pro Bono Panel lawyers were placed by the program and represented the pro se parties in either a full or limited scope representation.



The status of the 2022 cases are as follows:

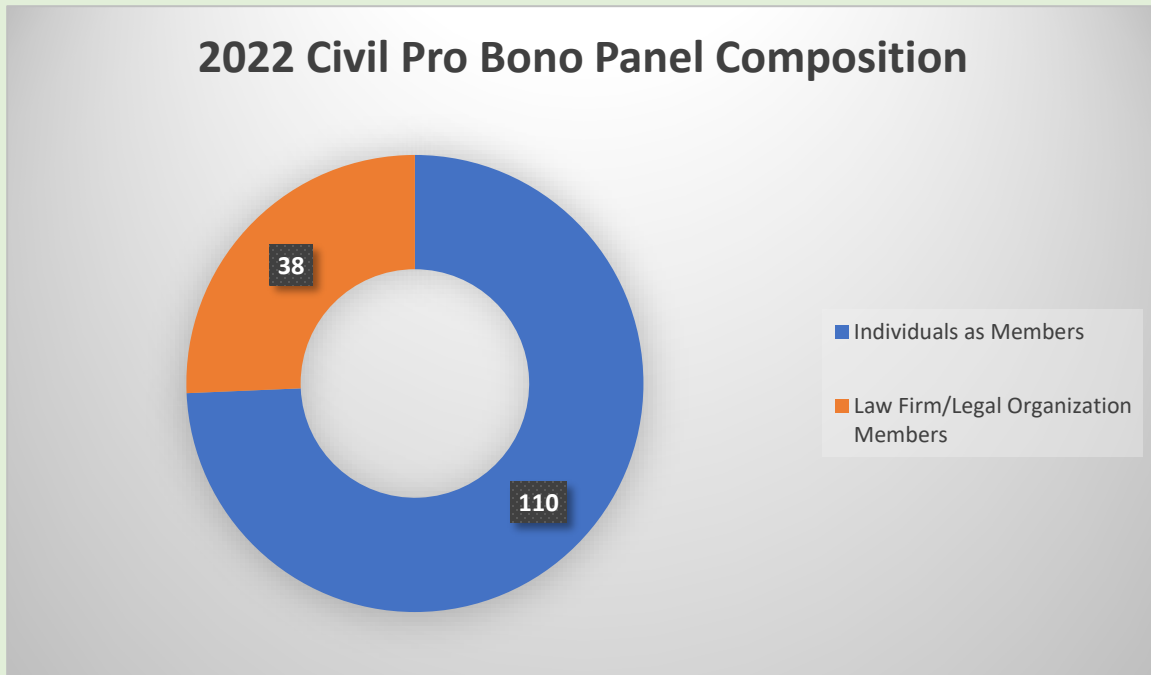


Unsuccessful placement of counsel – 14 of the 32 cases in 2022 still lack counsel; while staff redouble their efforts to recruit Panel members, finding the right match is an ongoing task.

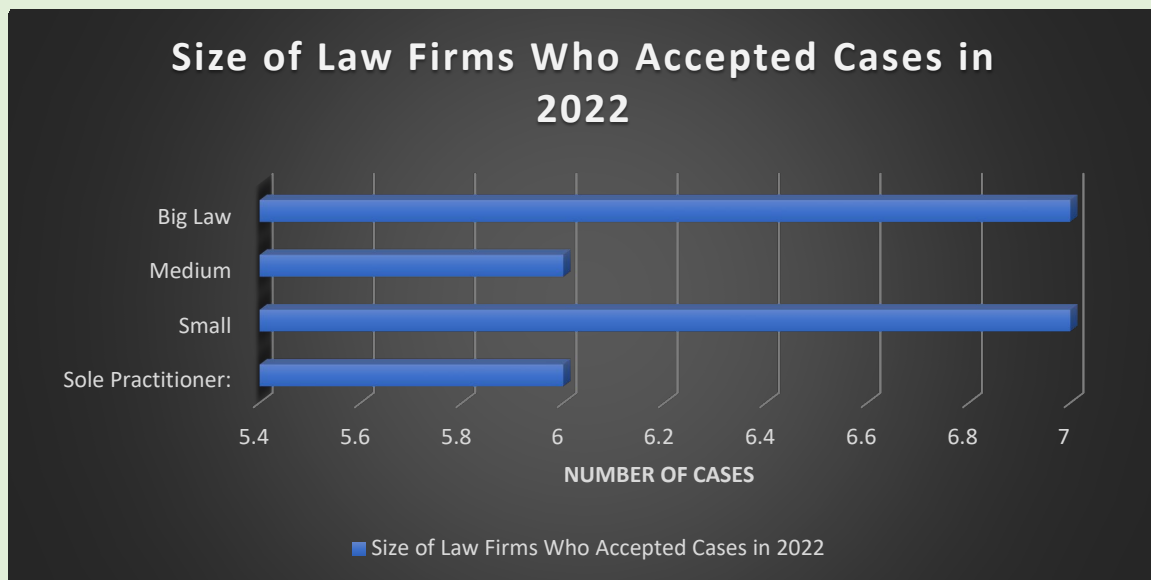


2022 Pro Bono Panel Member Data

Below is a graph representation of the current membership of the Civil Pro Bono Panel.



The size of law firms who accepted cases in 2022 varied greatly.



2022 U.S. District Court Pro Bono Honor Roll

The following attorneys and law firms who accepted cases in 2022:

- Luke McConnell of *Mulligan Breit McConnell LLC* – for [Haff v. Dawson](#)
- Penn Dodson of *Anderson Dodson, P.C* – for [Kershaw v. Elder](#)
- Laurence (Trip) DeMuth, Christopher Casolaro, Hannah Carter, Andrew Jackson, Mary Hershewe, Zachary Kachmer, and Alexandra Benton of *Faegre Drinker Biddle & Reath LLP* for [Owens v. Lewis, et al](#)
- David Lichtenstein, Matthew P. Molinaro of the *David Lichtenstein Law Office* – for [Wright v. Douglas County School District](#)
- Martha Fitzgerald, Sean Cuff of *Brownstein Hyatt Farber Schreck LLP* – for [Boles v. Colorado Department of Corrections et al.](#)
- Brian Scott Green, of the *Law Office of Brian Green* – for [Wang v. Miyako, Inc. and Xiangzing Lin](#)
- Mirko L. Kruse, *Kruse Law PLLC* and Stephen H. Hennessy, *Hennessy PLLC* – for [Ruby Michelle Smith v. Family Restaurants Inc., d/b/a Village Inn](#)
- Kevin D. Homiak, *Homiak Law LLC* and Athul K. Acharya, *Public Accountability* for [Brooks v. Colorado Department of Corrections et al](#)
- Tim Reynolds, David Miller, and Lucas Westerman of *Bryan Cave Leighton Paisner LLC* – for [Williams v. Borrego et al](#)
- Matthew Buck of *RedLaw LLC* – for [Faircloth v. Colorado Department of Corrections et al.](#)
- Bryan Rose and Nathaniel T. Vasquez, *Stinson LLP* – for [Tracy Alan Barnett v. USA, et al.](#)
- Ed Aro, Christopher Bruner, Kathleen K. Custer of *Arnold & Porter Kaye Scholer LLP* – for [Cory Scherbarth v. Woods et al.](#)
- Kevin Homiak of *Homiak Law LLC* – for [Snorsky v. Raemisch et al](#)

- David Tenner and Joshua Landy of the law firm of *Ridley McGreevy Winocur, P.C.* – for National Union Fire Insurance Company of Pittsburgh Pa. v. Derek and Kerri Johnson
- Brent Owen, David L. Coats of *Squire Patton Boggs* – for Hibbs v. Mercer et al
- Patricia Ho and Paul Cha of *Sheridan Ross, P.C.* – for Mehdiyev v. Qatar Tourism
- Jamie Hubbard and John Graham of *Stimson Labranche Hubbard* for Gonzalez v. Greeley Police Department et al
- Laura Wolf and Stephen Shaw of *Spark Justice Law LLC* – for Michele Rodriguez v. Waylon Lolotai
- Claire E. Hunter and Jesse Fishman of *HKM Employment Attorneys LLP* – for Hill v. SER Jobs for Progress National, Inc. et al
- David A. Lane of *Killmer Lane & Newman LLP*-- for Christopher Joe Clark v. McAndrews, Deputy, et al.
- Adam Harrison of *HKM Employment Attorneys LLP* – for Jones v. People Ready Inc.
- Jacob Jones of *Greenspoon Marder LLP* – for Luo v. Wang
- Michael Fairhurst of *Killmer Lane & Newman LLP* — for Thompson v. Ragland
- Brian Scott Green, of the *Law Office of Brian Green* – for Banks et al v. Jackson
- David Levin Miller, Kaitlin M. DeWulf, Lucas Adam Westerman, Timothy Michael Reynolds of *Bryan Cave Leighton Paisner LLC* – for Jonathan David Smith v. Rose, et al.
- David Lichtenstein of the *David Lichtenstein Law Office* – for Sarah Glenn v. The City of Florence and Brandon Harris