

PRO BONO PANEL PERIODICAL

THANK YOU FOR PICKING UP THE FALL 2020 PANEL PERIODICAL!

The Fall 2020 edition of the Panel Periodical newsletter features a description by Pro Bono Panel lawyers on *both sides of a case*; a reminder by a law firm member of the Standing Committee on Pro Se Litigation and his colleague about Panel membership and case participation and how it fulfills the important pro bono encouragement under the Colorado Rules of Professional Conduct; and an uplifting “Thank You” from a pro se party who benefited from the seamless teamwork aspect of Federal Pro Se Clinic assistance followed by Civil Pro Bono Panel attorney representation. Finally, a nice “kudos” message from the Chairperson of the Federal Government Pro Bono Program about the U.S. District Court’s Civil Pro Bono Panel program. Please remember that information about the Panel, answers to frequently asked questions, helpful forms, and a list of available cases are available on the court’s website at:

<http://www.cod.uscourts.gov/attorneyinformation/civilprobonopanel-details,availablecases.aspx>

DID YOU KNOW THE UNITED STATES COURTS SYSTEM IS AN ENTHUSIASTIC SUPPORTER OF PRO BONO LIMITED REPRESENTATION?

Please view the attached video [Link [HERE](#)] produced by the Federal Judicial Center, the educational arm of the United States Courts:

“Pro se litigants can consume a great deal of a court’s resources and finding pro bono counsel can be difficult and time consuming. But what if such counsel’s representation were of limited scope? Would that help, and if so, what would such a program look like? The Southern District of New York’s district court is having measurable success with its limited scope pro bono representation program for pro se litigants, to the benefit of litigants, attorneys, mediators, and the court.” (Federal Judicial Center, February 2017)



FEATURED ATTORNEY INSIGHT

The Panel Periodical offers the opportunity for a Panel Attorney(s) to share his or her experiences working on a Panel case. The following is presented as a guest column authored by attorneys Joshua Weiss of Brownstein Hyatt Farber Schreck LLP and Thomas J. Arckey of Arckey & Associates, LLC, who share their experience as pro bono counsel on opposites of the “v”. (The views of the attorneys do not represent the views of the U.S. District Court for the District of Colorado.)

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.

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.

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.

Meeting Law Firm Pro Bono Targets – Still Possible in a Pandemic World

by Frederick J. Baumann and Kenneth F. Rossman, IV of Lewis Roca Rothgerber Christie LLP
(The views of the attorneys do not represent the views of the U.S. District Court for the District of Colorado.)

The billable hour is a fact of law-firm life. Many law firms have established billable-hour requirements, or “targets,” for their associates. Fortunately, many law firms also provide billable hour “credit” for pro bono work. Prompted by the provisions in Rule 6.1 of the Colorado Rules of Professional Conduct, the Colorado Supreme Court has published a Recommended Model Pro Bono Policy for Colorado Licensed Attorneys and Law Firms, which provides that firms “value” at least 50 hours of pro bono services for “all purposes of attorney evaluation, advancement and compensation as the firm values compensated client representation.” In other words, associates should be given the same credit within the firm for 50 hours (or more) of pro bono services as they would receive for paying client work.

But, in today’s pandemic world, some opportunities for pro bono services have been curtailed. There are few, if any, civil trials (see, e.g., [District Court General Order 2020-15](#), suspending all trials through October 2, 2020), and many of the face-to-face pro bono opportunities ordinarily available in our community have been suspended due to health concerns. Thankfully, there are two opportunities at the District of Colorado for associates to meet their pro bono targets.

First, the [Federal Pro Se Clinic](#) remains up and running. Opened in June, 2018, the clinic is run by the Colorado Bar Association, and offers opportunities for firms and attorneys to meet (by video or phone these days) with pro se litigants in one-hour blocks of time. The lawyer does not establish an attorney-client relationship, but rather answers questions and gives assistance allowing the litigant to represent himself or herself. The Pro Se Clinic allows associates to meet their pro bono targets on a limited and predictable basis.

Second, the [Civil Pro Bono Program](#) reflected in D.C.COLOLAttyR 15 is also up and running. Under this program, lawyers typically represent litigants in all aspect of their case. But, in addition to traditional, full representation, opportunities exist for an attorney to enter an appearance for a limited purpose – e.g., to brief and argue a motion – which limits the time commitment necessary. Also, cost reimbursement is available through the [Faculty of Federal Advocates](#).

So, not only do these programs help people solve their legal problems and give you valuable federal court experience, they may also help you meet your billable hour goals.

A Grateful Client Thanks Civil Pro Bono Lawyers

By Edward Butler, Legal Officer

“Please share with everyone just how much they have impacted my life. Thank you.” Pro se party Karen Short expressed this in an e-mail to the Clerk’s Office in late May of this year, and attached two detailed thank you letters. Ms. Short, who filed a Title VII gender discrimination, Equal Pay Act, Fair Labor Standards Act, and related state law claims against her employer, had also filed a motion for appointment of counsel, granted by Magistrate Judge Crews after completing the standard initial review process. When Civil Pro Bono Panel lawyers Deborah Yim of Primera Law Group and Clinton Burke of Flat Creek Law PLLC accepted the case, within three months the parties reached a settlement and a stipulation to dismiss. Besides Deborah Yim’s and Clinton Burke’s invaluable representation, several organizations contributed to the legal assistance given to Ms. Short and the eventual successful resolution of her case.

Ms. Short expressed her appreciation in two detailed thank you letters, one for the [Civil Pro Bono Panel](#) as a whole and one to the Colorado Bar Association’s [Federal Pro Se Clinic](#) staff – a thoughtful gesture from a grateful client. Her gratitude, and the ability of the parties to resolve the dispute in what appears to be a fair and equitable outcome, could not have been achieved without the tremendous work and resources that go into each case when a pro se party seeks legal advice and appointment of counsel. Finding and securing counsel is a team effort – from the review, feedback, interest, and eventual acceptance of cases by the Civil Pro Bono Panel members – to the day-to-day management of the appointment process. For the latter, the court’s paralegal Kelsey Montalban deserves much recognition for her skills and efforts in successfully matching Panel members to pro bono opportunities.

As Ms. Short recognizes, she had great help along the way from the Federal Pro Se Clinic, its Program Attorney Leslie Kelly, and the numerous volunteer law firm, solo practitioner, and organizational lawyers who donate time to provide limited representation advice, as well as the Faculty of Federal Advocates and its Pro Bono Committee for their guidance and advice to appointed counsel. Finally, it is important to recognize that Mr. Short’s pro bono lawyers Deborah Yim and Clinton Burke joined the Pro Bono Panel after hearing about it through their participation in another great organization, the unique and fascinating legal mentorship program, [Legal Entrepreneurs for Justice](#): a “small business incubator for socially conscious lawyers providing affordable legal solutions to low and middle-income people in Colorado.” In the end, Ms. Short’s case was really a team effort of many Access to Justice partners and is another example that the Colorado bar as a collective effort provides a unique forum for bringing people and organizations together and resolving disputes.

As Ms. Short wrote in her thank you letter to the Federal Pro Se Clinic Staff, it applies to everyone who contributed to this case and to the principles of pro bono representation:

Each one of you gave me hope for the future with your kindness. Each one of you gave me confidence in the justice system. Each one of you still provide me with the knowledge that there is still good in the world; when I lost all hope of good existing.

“I remain convinced that the principal rewards that are available to the best lawyers in our profession are intangible rather than monetary. . . . [t]here is no substitute for pride in a job well done and knowledge that your talent and training have served others badly in need of help.”

- Associate Justice John Paul Stevens, from a 2000 article for the Chicago Bar Association. See American Bar Association’s [Guiding Hand Of Counsel Award](#), December 31, 2011.

The Civil Pro Bono Panel Leads the Nation!

While many would assume government attorneys of are barred from undertaking pro bono representation, there are actually numerous programs nationwide that encourage and foster government attorney participation in pro bono opportunities. One of those programs is the [Colorado Federal Government Pro Bono Initiative](#), and both the Civil Pro Bono Panel and the Federal Pro Se Clinic are approved activities for federal agency attorneys to volunteer – and several federal attorneys have participated in both programs. The U.S. Department of Justice approves programs on the basis of certain conditions, including appropriate time to run conflict checks and seek supervisory approval, outright bans on certain types of cases such as suits against government agencies, and the availability of malpractice insurance.

The Department of Justice’s Pro Bono Program Manager Laura Klein recently informed the Civil Pro Bono Panel administrators **that the Panel program is the only direct representation pro bono program approved by the Department in the nation** – and the Program Manager frequently points to the Panel as the model in order to encourage other federal courts to follow suit! We thought that was a nice pat on the back, and we welcome any government attorney – federal, state, or local – to participate in both programs.

START BRACING YOURSELF FOR PUBLIC RECOGNITION, PANEL MEMBERS!!!

We don't actually have a date certain for an award ceremony ... but accept a pro bono case now, and you are guaranteed a certificate and judicial recognition!



2018 Award Ceremony, hosted by District Judge Philip A. Brimmer, with remarks by District Judge William J. Martínez and Magistrate Judge Kristen L. Mix *Photo courtesy Colo. Supreme Court Justice Gregory Hobbs (Ret.)*