

PRO BONO PANEL PERIODICAL

SUMMER 2022 EDITION OF THE PANEL PERIODICAL

Summer 2022 finds the U.S. District Court – in the Denver, Grand Junction, Durango, and Colorado Springs courthouses – in full swing of civil, criminal, and other “cases and controversies.” New judges have been sworn in ([U.S. Magistrate Judge Maritza Dominguez Braswell](#) on July 6), will soon be sworn in ([U.S. District Judge Charlotte N. Sweeney](#), [U.S. Magistrate Judge Nina Y. Wang](#)), or have taken senior status ([Judge Arguello](#)). In July, Naturalization ceremonies will return to the Arraj Courthouse (July 21), jury trials concluded or conducted in notable cases (20-cr-00152-PAB, [USA v. Penn, et al](#) [unlawful restraint of trade]; 22-CR-012-WJM, [USA v. Rudolph et al](#) [foreign murder, insurance fraud]), and even the [makeshift federal courtroom](#) near Hayden, Colo. for processing of violations regarding the Rainbow Family Gathering. In other words, the Arraj, Rogers, Wayne Aspinall (Grand Junction), La Plata County (Durango) and Wahsatch Ave. (Colo. Springs) courthouses and even Routt National Forest have witnessed the forward progress of federal dockets.

This issue of the Panel Periodical features some important administrative matters for Civil Pro Bono Panel attorneys – the 2022 Biennial / Renewal Fee, a new Certificate of Good Standing issuance process, and a reminder about the shared Civil Pro Bono Panel PACER login and password, and a re-print of the Panel appointment process. Also discussed are some important and valuable training seminars hosted by the Faculty of Federal Advocates, the development of a Civil Pro Bono Panel Resource Library at the Arraj Courthouse, and a “request for submission” of articles on important caselaw developments, such as the Supreme Court’s recent *Egbert v. Boule* decision. We hope you find this edition informative and helpful, and please contact [Ed Butler](#) or [Ashley Sheehan](#) (303-335-2466) if you have any thoughts or suggestions.



“If the poor and the powerless do not have free access to our legal system, government by law is a failure.”

- *Sen. Walter F. Mondale*

“I feel that our society today has come to recognize, on a far broader basis than ever before, the desirability and necessity of providing adequate legal remedies to all our citizens for wrongs, real or imagined, for the full exercise of rights they have under the law; and I think the bill goes a long way in that direction.”

- *Sen. Robert Taft, Jr.*

(Statements made on the U.S. Senate floor, September 8, 1971, in support of bipartisan legislation to create the legal services entity now known as the [Legal Services Corporation](#). LSC is the grant-making organization which distributes nearly 94% of its federal appropriation to eligible nonprofit organizations delivering civil legal aid.)

Important Attorney Administrative Matters

Biennial / Renewal Fee:

Please note that **BEGINNING Oct. 1, 2022 and ending Dec. 31, 2022**, the U.S. District Court will be collecting the biennial (every two years) renewal fee. In 2022 the mandatory fee is **\$60.00**, collected from all bar members who wish to renew their bar status and remain in good standing. Please be aware that all funds collected through the biennial fee program are directed to the U.S. District Court’s [Federal Pro Se Clinic](#) and the [Federal Pro Se Bankruptcy Clinic](#), both of which are operated by the Colorado Bar Association. [If interested in volunteering with either clinic, please contact managing attorneys Jane Andrews (District Court clinic) at jandrews@cobar.org or Matt Skeen (Bankruptcy Court clinic) at mskeeen@cobar.org.]

For information about the Biennial Renewal Fee, please visit the U.S. District Court website’s [Biennial Renewal Fee](#) page:

The screenshot shows a web browser interface for the U.S. District Court website. At the top, a navigation bar includes links for Home, About the District, Judicial Officers, Court Operations, Juror Information, Attorney Information, and Representing Yourself. Below the navigation bar is a 'Quick Links' sidebar with links for Calendars, Contact Us, Attorney Status, Central Violations Bureau (CVB), and CJA - Office of the Federal Public Defender. The main content area is titled 'Biennial / Renewal Fee Information' and contains the following text: 'General Order 2022-7: Establishment of a Biennial Fee to Assist the Funding of the Federal Pro Se Clinic Program', 'Coming soon: Instructions for Payment of the Biennial Fee. Please note that the fee will not be collected until Oct. 1, 2022', and 'Biennial / Renewal Fee Correspondence to Attorneys and Law Firms' with a bullet point: 'CM/ECF Mass Mailer to All Registered CM/ECF Users, June 5, 2022'.

Instructions on the payment procedure are forthcoming, but the page acts as the information clearinghouse about the fee and the process for payment. The page includes Chief Judge Brimmer's June 1, 2022 [General Order 2022-7: Establishment of a Biennial Fee to Assist the Funding of the Federal Pro Se Clinic Program](#), which includes the order that:

“[T]he Court hereby establishes, on an ongoing basis, the means of funding the operations of the Federal Pro Se Clinic and the Federal Bankruptcy Pro Se Clinic by collecting a biennial renewal fee, collected every two years, from all U.S. District Court bar members. The fee amount will vary, depending on the reasonable needs of the Federal Pro Se Clinic program. The fee is waived for all attorneys employed by the U.S. government who serve in a legal capacity.”

NOTE – please do not attempt to pay the Biennial / Renewal Fee at this time – the payment process has not gone “live” in the court’s CM/ECF database, which is how the fee will be paid (the Attorney Services Portal, the previous means to pay the Biennial Renewal Fee, has been replaced by the “Single Sign-On” NextGen CM/ECF system).

Requests for Certificates of Good Standing:

Since many federal district courts, bankruptcy courts, and courts of appeal have transitioned to the NextGen CM/ECF system for attorney admissions, and since many of those courts require a Certificate of Good Standing from other federal district courts [*note that the District of Colorado does not require it*], the clerk’s office has seen an uptick in the number of certificate requests from this court. Rather than rely on submission of a credit card payment form and a manual processing scheme, the clerk’s office has adopted a more efficient process.

Effective July 1, 2022, attorney requests for both Certificates of Good Standing must be submitted through the U.S. District Court’s Case Management/Electronic Case Filing system. Please note that the use of an e-mailed credit card authorization form to the Clerk’s Office no longer serves as the method to request a certificate and is NOT available after July 1. For more information, visit the Certificates of Good Standing / Duplicate Bar Certificates page on the court’s [website](#).

Shared Pro Bono Panel PACER Login and Password:

Please remember that the PACER Login and Password which we encourage Panel members to use (the login and password themselves are provided in the Monthly Available Case e-mails) should only be used for **viewing** pro bono case documents, not for **filing**. You do need to use your own CM/ECF credentials when filing documents in a case. A miscommunication about the use of the login for participation in another pro bono program led to some confusion – if you have any questions, please contact Ed or Ashley.

Request for Article Submission – U.S. Supreme Court decision *Egbert v. Boule*, No. 21-147

On June 8, 2022, the U.S. Supreme Court held that the authority of a court to imply a cause of action under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics* does not extend to either respondent Robert Boule’s Fourth Amendment excessive-force claim or his First Amendment retaliation claim.. In her dissent, Justice Sotomayor wrote, “Today’s decision does not overrule *Bivens*. It nevertheless contravenes precedent and will strip many more individuals who suffer injuries at the hands of other federal officers, and whose circumstances are materially indistinguishable from those in *Bivens*, of an important remedy.”

Since *Bivens* cases are frequently heard in this court and is the cause of action in many Civil Pro Bono Panel cases, any Panel lawyers who would like to offer their analysis and insight on the potential ramifications of *Egbert* are invited to share their opinion (with full recognition that the statements and opinions expressed would be those of the author(s), and not of the U.S. District Court’s or its Standing Committee on pro se litigation).

Also, the Standing Committee on Pro Se Litigation welcomes any thoughts or suggestions for article submissions about pro bono case experiences or caselaw developments that impact typical cases on the pro bono docket. Contact Ed Butler (303-335-2043) or Ashley Sheehan (303-335-2466) or e-mail cod_attorneyservices@cod.uscourts.gov.

U.S. District Court Civil Pro Bono Panel Program Procedure

- Ashley Sheehan, Paralegal, U.S. District Court -

An attorney has five business days to review the case, conduct a conflicts check, and otherwise determine if the attorney is able to accept the appointment. *Regardless of whether an attorney can accept the case or not, the attorney must contact us to let us know.* If the attorney intends to proceed with the case and undertake representation, the Attorney Services Division will then enter a Notice of Appointment notifying the court and opposing counsel that you have been selected, and from that point a 30-day time period will commence. The Attorney Services Division also sends a Letter of Introduction to the Pro Se Litigant to help start the relationship between the attorney and the litigant (see below). The 30-day period allows the attorney to interview the client, arrange an engagement letter, etc., and otherwise reach a final determination whether or not representation of the pro se party will go forward. Within that 30-day period, the selected attorney(s) will need to enter a formal appearance in the case; or, if it appears representation is not possible because of extraordinary circumstances, a Notice Declining Appointment will need to be filed by the attorney(s).

appointed by Chief Judge Brimmer to the Standing Committee on Pro Se Litigation, the oversight committee of the Civil Pro Bono Panel, serving as a non-voting member.

A formal investiture ceremony will be planned for a later date. Magistrate Judge Dominguez Braswell's chambers are located in Colorado Springs. Her chamber's telephone number is: 719-575-0328. Cases assigned to Magistrate Judge Dominguez Braswell will be identified on the docket by her initials MDB, and her judicial officer page on the court's website is available [here](#), which includes her [Practice Standards](#).

- *Welcome Charlotte N. Sweeney as U.S. District Judge*

Though she has yet to be sworn in as a U.S. District Judge at the time of this newsletter, Charlotte Sweeney has been confirmed by the U.S. Senate to fill the position previously held by Judge R. Brooke Jackson, who now has taken senior status. Among many other volunteer positions, Ms. Sweeney also served on the board of the Faculty of Federal Advocates, was the President of the FFA in 2015, and also represented clients on a pro bono basis as part of the Civil Pro Bono Panel and Counsel / Co-counsel programs in at least three separate cases, and served as a mentor advisor in several others. **Her first day on the bench is expected to be Aug. 1.**

Once Charlotte Sweeney is given the oath of office as a district judge, the court will send an e-mail informing all bar members about her courtroom location and contact information.

- *U.S. District Judge Christine M. Arguello / U.S. Magistrate Judge Nina Y. Wang*

On July 15, 2022 [Judge Arguello](#) took senior status, with her position to be filled by U.S. Magistrate Judge Nina Y. Wang, who was [nominated](#) by President Biden on Jan. 19, 2022. Since Magistrate Judge Wang has been confirmed by the U.S. Senate on July 19, as with Charlotte Sweeney, once Judge Wang is given the oath of office as a district judge, the court will send an e-mail informing all bar members about her courtroom location and contact information. Congratulations to both Judge Arguello and Judge Wang!

Now Available: the USDC Civil Pro Bono Panel's Annual Report

A publication of the court's Standing Committee on Pro Se Litigation, the Civil Pro Bono Panel's Annual Report presents information on the number of orders of appointment of pro bono counsel entered in 2021, the number of cases successfully placed with pro bono counsel, what types of cases were available, and will list an "Honor Roll" of the pro bono volunteers. Visit the court's [Civil Pro Bono Panel page](#) for access to the 2021 Annual Report, also available [here](#).

Don't Miss Pro Bono Training Seminars Hosted by the FFA!

- *July 22, 2022 Webinar – Pro Bono Basics and Employment Law / Civil Rights Cases:*

FACULTY OF FEDERAL ADVOCATES

PRESENTS

FRIDAY, JULY 22, 2022

*"REPRESENTING PRO BONO CLIENTS IN
FEDERAL COURT (PART 1)*

8:30 A.M. - 1 P.M.

WEBINAR ONLY

There is no charge for this CLE but registration is required. – Register [HERE](#)

Why take a U.S. District Court for the District of Colorado Civil Pro Bono Panel case? And how do you take such a case? This half-day seminar will cover the many great reasons for taking U.S. District Court (Colorado) Civil Pro Bono Panel cases and how to do so effectively. It also will cover two of the most common types of cases available through the panel – claims based on employment and civil rights laws. Attendees will hear from local attorneys who are leaders in these fields and from attorneys who have successfully litigated Civil Pro Bono Panel cases through trials and settlements. Attorneys newer to practicing in Colorado should benefit greatly from attending and participating in the USDC Civil Pro Bono Panel. Lastly, note that the FFA plans to host a follow-up seminar later in the year to address the litigation of prisoners' rights cases that frequently are available through the U.S. District Court (Colorado) Civil Pro Bono Panel.

Click [HERE](#) for information about the USDC Civil Pro Bono Panel.

5 general CLE credits requested.

December 2022 – Date TBD – Prison Litigation Pro Bono Training:

Similar to the Employment Law / Civil Rights event described above, a Civil Pro Bono Panel–focused training seminar hosted by the FFA and presented by a panel of prison litigation expert practitioners will be held in December this year - -the date and details have not yet been set.

Please be on the lookout for future e-mails from Ed and Ashley of the clerk's office or from the Faculty of Federal Advocates for more information and registration details. It is hoped that the seminar will be held in person and offsite from the courthouse in order to encourage candid and open discussions on the logistics, procedural and substantive law topics enmeshed in prison litigation.


COMING SOON – THE CIVIL PRO BONO PANEL RESOURCE LIBRARY –

The Civil Pro Bono Panel administrators are pleased to announce that a mini-library is being created for Panel members and pro bono volunteers to use. Treatises on employment law, civil rights, Sec. 1983 litigation, prison litigation materials, and other materials that may assist volunteer lawyers will be available for check-out from the court's Attorney Services Division – Ashley Sheehan, Paralegal and CPBP Honorary Librarian. You may visit the clerk's office Intake Division on the first floor of the Arraj Courthouse and ask for her, or contact her at cod_attorneyservices@cod.uscourts.gov, or call 303-335-2466.

Current available titles include the following:

- The Practitioner's Guide to Colorado Employment Law, Third Edition (Includes 2018 & 2020 Updates), Sean R. Gallagher, Kathryn E. Miller and Jessica Brown, Managing Editors, *CBA-CLE (CLE in Colorado, Inc.)*, January 2020.
- Sword and Shield: A Practical Approach to Section 1983 Litigation, Mary Massaron (Editor), Josephine Antonia Delorenzo (Editor), *American Bar Association*, March 2022.
- The Jailhouse Lawyer's Handbook, Sixth Edition, Rachel Meeropol, Ian Head, Chinyere Ezie, Editors, *The Center for Constitutional Rights and The National Lawyers Guild*, Revised in 2021.
- Federal Court Prison Litigation Handbook, *U.S. District Court, Dist. of Colo. Standing Committee on Pro Se Litigation*, Nov. 2021 [See below].

THE FEDERAL COURT PRISON LITIGATION HANDBOOK IS NOW AVAILABLE FOR ALL ATTORNEYS INTERESTED IN REPRESENTING INCARCERATED LITIGANTS:



This handbook provides procedural and substantive information for pro bono attorneys representing incarcerated people in civil actions in the District of Colorado.

Contributors to this Handbook:

Laura Rovner
Nora Q.E. Passamaneck
Dan Shaffer
Danielle C. Jeffers
Alec Gibson, CU Fellow Scholar for U.S. Magistrate Judge Kristen L. Mix
Nicole Salamander-Irby
Edward Butler

Photo of Colorado State Penitentiary courtesy of the Colorado Department of Corrections website

**FEDERAL
COURT PRISON
LITIGATION
HANDBOOK**

Fall 2021 Edition

Disclaimer: The contents of this guide are provided for informational purposes only and do not constitute legal advice.

Interested in Serving as a Guardian Ad Litem? – Opportunities Frequently Arise

Please be aware that the court is in need periodically for attorneys to serve as guardians ad litem for minors, or incapacitated adults. The court has authority to appoint a G.A.L. under [Fed. R. Civ. P. 17\(c\)](#), and directs the clerk of the court to select and invite lawyers to serve.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. [REDACTED]-GPG
(The above civil action number must appear on all future papers sent to the court in this action. Failure to include this number may result in a delay in the consideration of your claims.)

[REDACTED], a minor,
Plaintiff,
v.
DIVISION OF YOUTH CORRECTIONS,
[REDACTED], and
[REDACTED],
Defendants.

APPOINTMENT ORDER

Plaintiff is in the custody of the Colorado Division of Youth Corrections. Plaintiff has submitted to the court *pro se* a Prisoner Complaint (ECF No. 1), a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to [28 U.S.C. § 1915](#) (ECF No. 3), a Motion for Appointment of Counsel (ECF No. 4), and a Motion to File Case Under Seal (ECF No. 5). The motion seeking leave to proceed *in forma pauperis* pursuant to [28 U.S.C. § 1915](#) and the motion to file under seal will be granted. The motion for appointment of counsel will be denied at this time without prejudice.

Plaintiff alleges he is a minor. Therefore, Plaintiff lacks the legal capacity to proceed *pro se*. See [Fed. R. Civ. P. 17\(c\)](#). Furthermore, "[t]he court must appoint a

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guardian ad litem – or issue another appropriate order – to protect a minor or incompetent person who is unrepresented in an action.” [Fed. R. Civ. P. 17\(c\)\(2\)](#). Accordingly, it is

ORDERED that the Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to [28 U.S.C. § 1915](#) (ECF No. 3) is granted. It is

FURTHER ORDERED that the Clerk shall select, notify, and appoint a guardian ad litem to represent Plaintiff in this civil matter. It is


FURTHER ORDERED that, after appointment, the guardian ad litem shall have thirty days to submit an amended complaint or other appropriate filing. It is

FURTHER ORDERED that the Motion for Appointment of Counsel (ECF No. 4) is denied without prejudice. It is

FURTHER ORDERED that the Motion to File Case Under Seal (ECF No. 5) is granted.

DATED October 14, 2016, at Denver, Colorado.

BY THE COURT:



Gordon P. Gallagher
United States Magistrate Judge

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Guardians ad litem ideally perform their duties on a pro bono basis, but please be aware that limited funding is available from the court's Non-Appropriated Fund (“[Plan For The Administration Of Locally Held Attorney Admission Funds](#)”) (i.e., funds derived from bar admission fees). The G.A.L. appointed in the case referenced above was granted her fees in part from the Non-Appropriated Fund.

POWER Act Event — Denver Indian Center and Webinar

– September 7, 2022 –

All Civil Pro Bono Panel members are invited to attend (for CLE credits, including an ethics portion) the 2022 POWER Act event. The POWER Act is the acronym for "Pro Bono Work to Empower and Represent Act of 2018" (P. L. 115-237) that Congress passed on September 4, 2018. The primary goal of the POWER Act is for the U.S. district courts to partner with local, tribal, or territorial domestic abuse service providers and local volunteer lawyer projects to promote pro bono legal services as a way to empower survivors of domestic violence, sexual assault, and stalking, and to engage citizens in assisting those survivors.

For 2022, the U.S. District Court, Faculty of Federal Advocates, and the Colorado /Denver Bar Associations are hosting an in-person AND webinar event at the Denver Indian Center, 4407 Morrison Rd., Denver. The program will be conducted as a “hybrid” affair – Rick Waters of the Denver Indian Center, Toni-Anne Nunez of Metro Volunteer Lawyers, and James Wilder of the Office of Attorney Regulation Counsel will speak in person at the Denver Indian Center on behalf of their organizations. The other speakers – all of whom spoke at our Sept. 2020 event held in Southwest Colorado– will appear by Zoom.

- **Date:** Wednesday, Sept. 7, 2022
- **Location:** [The Denver Indian Center](#), 4407 Morrison Rd, Denver, CO 80219
- **Time:** 3:00 p.m. – 5:00 p.m. (followed by Metro Volunteer Lawyers [Denver Indian Center Legal Clinic](#) at the Denver Indian Center from 6:00 pm to 8:00 pm.)
- **Speakers:** Rick Waters, Director, Denver Indian Center; Toni-Anne Nunez, Director of Metro Volunteer Lawyers; Lori Hubert, Domestic Violence Program Specialist, Ute Mountain Ute tribe; Kelsey Lansing, Victim Advocate/Tribal Outreach Coordinator, Sexual Assault Services Organization, Durango; Lisa Manzanares, Victim Services Program Specialist, Southern Ute tribe; Lindsay Marshall (or alternate), Managing Attorney, Colorado Legal Services, Durango; Norma Peabody, Rural Domestic Violence Advocacy Coordinator/Supervisor, Ute Mountain Ute Victim Support Services; and James Wilder (or alternate), Assistant Regulation Counsel, Office of Attorney Regulation Counsel (OARC).

Remember – You Can Access Civil Pro Bono Panel Documents, News, and Events on the U.S. District Court’s Civil Pro Bono Panel [Webpage](#):

Civil Pro Bono Panel - Details, and Available Cases

PERMANENT PROGRAM FOR COURT APPOINTMENT OF PRO BONO COUNSEL

ANNOUNCEMENT – THE FEDERAL COURT PRISON LITIGATION HANDBOOK IS NOW AVAILABLE FOR ALL ATTORNEYS INTERESTED IN REPRESENTING INCARCERATED LITIGANTS

Application for Attorneys to Join the Civil Pro Bono Panel and Sample Motions:

- Download Civil Pro Bono Application
- Download Local Rule LAttyR 15 - Civil Pro Bono Representation
- Download Civil Pro Bono Panel Description
- Download Attorney Motion for Panel Appointment
- Link to Other Civil Pro Bono Panel Attorney Forms

Handbooks, Instructions, and Guides:

- Download Federal Court Prison Litigation Handbook for Attorneys
- Download Limited Representation Guide

"Panel Periodical" Newsletters:

- Download Spring 2019 Civil Pro Bono Panel "Panel Periodical" Newsletter
- Download Winter 2019 Civil Pro Bono Panel "Panel Periodical" Newsletter
- Download Spring 2020 Civil Pro Bono Panel "Panel Periodical" Newsletter
- Download Fall 2020 Civil Pro Bono Panel "Panel Periodical" Newsletter
- Download Winter 2020 Civil Pro Bono Panel "Panel Periodical" Newsletter
- Download Spring 2021 Civil Pro Bono Panel "Panel Periodical" Newsletter
- Download Fall 2021 Civil Pro Bono Panel "Panel Periodical" Newsletter
- Download Spring 2022 Civil Pro Bono Panel "Panel Periodical" Newsletter

Pro Bono Panel Annual Reports and Recognition of Volunteer Attorneys:

- Download 2017 Annual Report of the Civil Pro Bono Panel
- Download 2018-2019 Annual Report of the Civil Pro Bono Panel
- Download 2019-2020 Annual Report of the Civil Pro Bono Panel
- Download 2021 Court-FFA Dec. 7, 2021 Recognition of Volunteer Attorneys
- Download 2021 Annual Report of the Civil Pro Bono Panel

Cases Available TO ALL ATTORNEYS for Pro Bono Representation
 [Per LAttyR 15(f), at least four Civil Pro Bono Panel attorneys have reviewed each of these cases and opted not to accept representation]:

Case Number	Case Name	Cause of Action	Plaintiff/Defendant	Complaint
18-cv-02578-PAB-5KC	Brooks v. Colorado Department of Corrections et al	Cause: 42:1983 Prisoner Civil Rights (Deliberate indifference, 14th amendment special relationship doctrine, civil conspiracy, equal protection and obstruction to court access)	Plaintiff	Complaint