From:
Sent: Monday, August 22, 2022 12:09 PM
To: LocalRule Comments
Subject: Registered: Local rule LAttyR3 on requirements for bar admission - "active" status requirement
Attachments: DDC license.jpg

Hello. I retired from active law practice a number of years ago, but have continued to work as a volunteer lawyer for Colorado Legal Services. Upon my retirement, I went to "inactive" status with the Colorado Supreme Court under the authority of a pro bono certification that allows me to represent clients of CLS as if I still had a full license. That excuses me from paying fees and CLE requirements but allows me to appear in court, etc. on behalf of our clients.

I want to assist another lawyer in our office with a case he recently filed in your court and would like to apply for admission. But local rule LAttyR 3(a) states that an applicant must be "on active status" in another jurisdiction. The local rule on pro bono appointments (LAttyR 15) doesn't appear to create an exception to the "active status" requirement. As a result, lawyers in my situation* are precluded from assisting indigent clients in your court.**

Like probably most lawyers in my situation, I went inactive because I no longer wanted or needed to represent "paying" clients. But I still wanted to try to help meet the tremendous need for legal help for people with limited means. The local rules should encourage this, rather than create a *disincentive* (in the form of bar membership fees, CLE requirements, etc.)

I request that you consider amending the local rules to create a limited exception that allows lawyers with pro bono certifications to practice on behalf of their indigent clients. Thank you for your consideration of this request.

*According to an email I received from Edward Butler of the court's lawyer admission section, this same issue has come up previously with other lawyers holding pro bono certifications from the Colorado Supreme Court.

**For what it's worth, I was admitted to the Denver District Court bar many years ago.

From:
Sent: Thursday, January 12, 2023 4:03 PM
To: LocalRule Comments
Subject: Motions to Approve FLSA Cases
Attachments: FLSA Settlement Worksheet Prp (1).pdf

I represent plaintiffs in wage and hour disputes, in CO and also in NY and GA. One of the peculiarities about the FLSA is that in some jurisdictions, any settlement of an FLSA claim must be court (or DOL) approved. The 2nd and 11th circuits do require that, but the 10th has not yet spoken on the matter. In the D. Colo. the current consensus in the caselaw appears to be that parties may but do not have to seek court approval. I am a proponent of the approval process in principle but do also agree with some judges' assessment that the process of approval can be tedious.

In conjunction with a motion I recently filed in a case with Judge Hegarty, I prepared the attached form as an example of one that the court could require litigants to use that could serve as a checklist to facilitate the review process, so that it's less cumbersome for the court when they do get those motions (and also to help guide litigants as they enter into these agreements). The contents are premised on things I have learned with both my own cases and from extensive caselaw I have reviewed, from within and without the jurisdiction – I am happy to bombard you with citations to the extent they might be wanted but didn't want to foist them on you. This two page form is a distillation of hundreds of opinions. I offer this as a potential resource for the court's consideration, and am happy to engage in further discussion about it if it's of interest to anyone there. Thank you.

UNITED STATES DISTRICT COURT

DISTRICT OF COLORADO

FLSA SETTLEMENT WORKSHEET

Case Name: _____ Case Number: _____

Overview of Case & Claims: *This should be a brief summary of what the wage claims and disputes are, including facts such as type of company, the Plaintiff's title/position, duration of employment, and nature of the type of underpayment(s) alleged.*

	YES	NO	N/A	Page	Section
1. Scope of Release. Does the settlement include a release of claims outside of, or in addition to, wage claims?					
Notes: General releases are disfavored in FLSA settlements.					
If yes, what special circumstances warrant a broader release?					
2. Confidentiality. Does the settlement include a confidentiality provision?					
Notes: Confidentiality provisions are disfavored in FLSA settlements.					
If yes, what special circumstances warrant a confidentiality provision??					

	YES	NO	N/A	Page	Section
3. Non-Disparagement. Does the settlement include a prohibition against the Plaintiff/employee making truthful statements about their wages, the claim or lawuit they have brought, or their experiences pursuing these claims?					
Notes: Nondisparagement provisions either must not exist at all or must not be so broad as to include truthful statements related to the Plaintiff's wages or experiences pursuing the claim.					
If yes, explain why the settlement should be approved with this inclusion					
4. Forfeiture of other rights. Does the settlement include any forfeitures of rights outside of the release of claims, such as a prohibition against re-employment?					
Notes: Such provisions are disfavored in FLSA settlements.					
If yes, what special circumstances warrant this/these provision(s)?					
5. Monetary amounts.					
What is the total settlement amount?					
What amount is payable to the Plaintiff(s)?					
What amount is payable to Plaintiff's(s') counsel?					
Of the amount payable to Plaintiff's(s') counsel, how much is for costs?					
Of the amount payable to Plaintiff's(s') counsel, how much is for fees?					
What percent of the total recovery does the fee portion represent?					
On what basis are the attorney fees computed? (e.g. percenage, hourly, etc.)					
	YES		**NO**		
Are there time and pay records from which damages can be computed with relative certainty?					

If Plaintiff(s) were successful on their FLSA claims, how much would the federal minimum wage claims be worth? *(Do not include liquidated damages)*		
If Plaintiff(s) were successful on their FLSA claims, how much would the federal overtime claims be worth? *(Do not include liquidated damages)*		
	YES	**NO**
Is the amount payable to the Plaintiff(s) less than twice the amount of the federal minimum wage plus overtime claims as stated above?		
Notes: Any compromises to the full minimum wage, overtime, and liquidated damage amounts must be justifiable.		
Provide any explanations as to why the above represents a fair and reasonable settlement for the Plaintiff(s).		
****** Plaintiffs' counsel are directed to submit copies of their retainer agreements and contemporaneous activity or timekeeping logs. They may do so under seal. ******		
6. Other considerations. Are there any other issues the Court should consider when evaluating whether to approve this settlement? If so, briefly explain.		

U.S. Department of Justice

June 1, 2023

Advisory Committee on the Local Rules of Practice and Procedure
United States District Court, District of Colorado
Alfred A. Arraj United States Courthouse
901 19th Street
Denver, CO 80294
LocalRule_comments@cod.uscourts.gov

Re: Comments on the electronic filing of administrative records in environmental appeals

Dear Local Rules Committee,

The Environment and Natural Resources Division of the Department of Justice and the United States Attorney's Office for the District of Colorado, which litigate numerous environmental cases under the Administrative Procedure Act in the District of Colorado every year, jointly submit a proposed modification of the Court's Joint Environmental Case Management Plan, which is cross-referenced in the Local Rules of Practice of the United States District Court for the District of Colorado-AP Rules. Our comments pertain specifically to environmental cases reviewed under the Local AP Rules, and suggest a change that we believe will streamline the electronic filing of voluminous administrative records in those cases and facilitate judicial review.

I. Difficulties in filing administrative records in environmental cases through the CM/ECF system

The Local AP Rules apply to many cases brought under environmental statutes because those rules apply to, *inter alia*, "a case commenced or reviewed under 5 U.S.C. § 706 concerning an action or final decision of an administrative agency." Those rules provide for the parties to file a Joint Case Management Plan, and there is a special version of that plan for "environmental cases." D.C.COLO.LAPR 16.1(a).

The Local AP rules and the Joint Environmental Case Management Plan do not, however, make clear how the administrative record should be submitted. The Court's Electronic Case Filing Procedures (Civil Cases), Version 6.1, appear to suggest that records may be filed conventionally. *See* § 4.8(f) (referring to "stand-alone administrative records filed conventionally"). The Joint Environmental Case Management Plan, which is incorporated by reference and hyperlink in D.C.COLO.LAPR 16.1(a), contains, in Paragraph 6.A, a suggested "Deadline for Filing Administrative Record" and states that "[w]hen possible, the record shall be filed in a searchable electronic format, i.e., .pdf." But this provision for filing the administrative

record in ".pdf" format does not specify whether the record is to be filed in conventional format, or via the Court's CM/ECF system.

In the past, attorneys in our offices have typically satisfied any requirement to file the administrative record by filing it "conventionally." They have served the Court and the parties with certified electronic copies of the administrative record—typically on a USB flash or "thumb" drive—and filed via the Court's CM/ECF system a Notice of Lodging the Administrative Record that includes the certification of the record and an index of the documents in the record. Generally, attorneys in our offices and agency staff have endeavored to maximize the usability of these electronic records, by submitting the documents in searchable formats and hyperlinking them to the index, so that the user can retrieve a document simply by "clicking" on a link in the index.

Recently, however, our attorneys have been instructed by the Clerk's Office that the entire administrative record must be uploaded and filed via the Court's CM/ECF system. This instruction presents several difficulties.

First, in our Administrative Procedure Act ("APA") environmental cases, the entire administrative record—or records, in cases with multiple agency defendants—is typically very voluminous. It can include not only agency decisions and rationales, but extensive public comment documents, numerous citations to scientific papers, and data-heavy maps. These administrative records can include thousands of individual documents and number, in total, in the thousands (to tens of thousands) of pages. And, in our experience, the majority of these administrative record documents are not relied upon by the parties in their briefs or reviewed by the Court in assessing the parties' arguments.

Second, there is no efficient way to upload these voluminous administrative records to the CM/ECF system. Given the huge number of documents, attorneys cannot file each record document individually, so they divide the record into large file "batches" of the size limit of the system (currently 25 megabytes) and upload each file batch individually onto the CM/ECF system. Even using this approach, the process is very cumbersome. Each docket entry on the CM/ECF system allows only so many attachments, so that multiple docket entries are required to file the entire administrative record. In addition to the time needed to divide the record in fileable batches, the process of simply uploading these documents can take, in some circumstances, more than one business day.[1]

Third, uploading the entire administrative record to the CM/ECF system results in a record that is cumbersome for the Court, the parties, and the public to use. The batch system groups together hundreds of distinct documents, making it extremely difficult for a user to find any given document. And dividing the record into batches of a fileable size breaks the hyperlinked connection between each individual document and the index prepared by the agency.

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[1] For example, in *Oregon-California Trails Association et al. v. Walsh*, Civil Action No. 19-cv-01945-WJM (D. Colo.), filing the administrative record required four docket entries, each with 43 to 50 attachments (each a batch of record documents), totaling over 34,000 pages of documents. After the record was corrected one month later, an additional five attachments were uploaded, adding nearly 3,800 more pages to the administrative record.

We understand that the Court is concerned with preserving a usable and accessible record of APA cases. As discussed below, we believe that the District of Colorado could adopt procedures used by other courts that would address this concern while avoiding significant inefficiencies presented in uploading entire administrative records onto the CM/ECF system.

II. Proposed modification of the model Joint Environmental Case Management Plan

Other courts have employed various models to avoid the inefficiencies of filing an entire voluminous administrative record while ensuring that the court and public have access to the documents relevant to the issues to be decided.

In our experience, the most common procedure in other district courts for handling large administrative records is to allow those records to be submitted conventionally, such as through a USB drive, in a searchable electronic format, rather than through the CM/ECF system. We note that this Court, in other contexts, permits conventionally submitted materials and exhibits. *See, e.g.*, D.C.COLO.LCivR 79.1; D.C.COLO.LCrR 55.1. A return to this approach would significantly ameliorate the difficulties outlined above.

A second approach—and the one we recommend—is to limit the required CM/ECF filings in APA environmental cases to a joint appendix that includes just the parts of the record cited by the parties. This approach is followed by the U.S. District Court for the District of Columbia—which hears a high volume of cases seeking judicial review of federal administrative actions. The District of Columbia's Local Civil Rule 7(n) requires the agency to file via CM/ECF a certified list of the contents of the administrative record and provide the entire record to the parties. After the conclusion of briefing on dispositive motions, the parties jointly prepare and file via CM/ECF an appendix containing only those portions of the administrative record relied upon in the briefing. This joint appendix approach is consistent with the APA, which provides that in reviewing agency actions, courts "shall review the whole record *or those parts of it cited by a party*." 5 U.S.C. § 706 (emphasis added).

The joint appendix approach is also consistent with the Tenth Circuit's instruction that judicial review of agency actions in the district courts should be processed as appeals, and as a result "the district court should govern itself by referring to the Federal Rules of Appellate Procedure." *Olenhouse v. Commodity Credit Corp*., 42 F.3d 1560, 1580 (10th Cir. 1994). The Federal Rules of Appellate Procedure, in turn, require that the parties to an appeal designate and serve an appendix of the relevant portions of the record, including the agency's administrative record. Fed. R. App. P. 30; 10th Cir. R. 30. The parties may request that they be permitted to use the deferred appendix approach, which allows the parties to further streamline the appendix by including only those portions relevant to the arguments advanced in the parties' briefs. Fed. R. App. P. 30(c); 10th Cir. R. 30.1(A)(3).

We recommend the District of Colorado adopt a joint appendix approach in APA environmental law cases. This approach conforms to the APA and appellate practice and will ensure that the public docket for a case includes those portions of the administrative record relevant to the parties' arguments but is not cluttered with uncited documents or information.

The simplest way to make this change in environmental cases would be to modify the model Joint Environmental Case Management Plan referred to in D.C.COLO.LAPR 16.1(a). The modified model Joint Environmental Case Management Plan could include default language under which (1) the agency would file a certified index of the contents of the administrative record through the CM/ECF system, (2) the agency would provide the entire record to the parties, and (3) the parties would prepare a joint appendix of the materials cited in the briefing and file it through the CM/ECF system.

The model Joint Environmental Case Management Plan currently says:

A. Deadline for Filing Administrative Record:

[The Deadline for Filing the Administrative Record should be 30 days from the date of the Response to the Petition. When possible, the record shall be filed in a searchable electronic format, i.e. .pdf]

We suggest that the Joint Environmental Case Management Plan be amended to say:

A. Administrative Record:

[Within 30 days after filing a Response to the Petition, or by an alternative deadline agreed upon by the parties and accepted by the Court, the agency must provide the parties a certified copy of the administrative record and must file with the Court a certified index of the contents of the administrative record. Unless so requested by the Court, the entire administrative record shall not be filed with the Court.

Counsel shall provide the Court with an appendix containing copies of those portions of the administrative record that are cited or otherwise relied upon in any memorandum in support of or in opposition to any dispositive motion. The appendix shall be prepared jointly by the parties and filed via the CM/ECF system within 14 days following the final memorandum on the subject motion. The parties are encouraged to agree on the contents of the appendix which shall be filed by Petitioner. In the absence of an agreement, Petitioner must serve on all other parties an initial designation and provide all other parties the opportunity to designate additional portions of the administrative record. Petitioner shall include all parts of the record designated by all parties in the appendix.][2]

*****

It does not appear to us that adopting this language in the Joint Environmental Case Management Plan would require modification of the Local AP rules or this Court's Electronic Case Filing Procedures. As noted above, the Local AP rules do not expressly require the filing of the entire administrative record, and the Electronic Case Filing Procedures (Civil Cases) appear to contemplate that, at least in some circumstances, administrative records may be

[2] In placing the burden on the Petitioner to file the joint appendix, we are following the District of Columbia's Local Civil Rules and the Tenth Circuit's Rules of Appellate Procedure. We note, however, that the Committee could choose to place the obligation to file the joint appendix on the Respondent.

submitted conventionally. But if the proposed language set forth above for the Joint Environmental Case Management Plan is deemed inconsistent with those rules, we request that those rules be modified to the extent needed to permit the efficient approach set forth above.

We appreciate the opportunity to comment and hope the Local Rules Committee will find value in this suggestion.

U.S. DEPARTMENT OF JUSTICE

COLE FINEGAN
United States Attorney
District of Colorado

1801 California Street, Suite 1600
Denver, Colorado 80202

June 1, 2023

By email to LocalRule_comments@cod.uscourts.gov
Advisory Committee on the Local Rules of Practice and Procedure
United States District Court, District of Colorado
Alfred A. Arraj United States Courthouse
901 19th Street
Denver, Colorado 80294

Re: Comments on Rules for Social Security Appeals

Dear Local Rules Committee:

The United States Attorney's Office for the District of Colorado and the Social Security Administration's Office of Program Litigation provide these comments on the Local Rules of Practice for the United States District Court for the District of Colorado relating to social security appeals. As set forth below, we propose a small change to the judicial officer selection and assignment process that we believe would benefit both the parties and the Court.

Social security appeals are currently subject to the Local Rules of Practice for the United States District Court for the District of Colorado – AP Rules. D.C.COLO.LAPR 1.1(c). The AP Rules direct a pre-merits management process by which social security appeals are assigned to one judge for resolution of pre-merits issues, followed by assignment to another judge for the merits phase. As a result, the parties do not know the identity of the judicial officers who will be deciding the merits of the case until after briefing is completed. SSA is not aware of any other district that directs assignment in this manner.

Although this local process provides benefits, including efficient resolution of the parties' requests for extensions and stipulated motions to remand, we believe one aspect of this process—that parties receive notification of the merits judge only after briefing is completed—presents some challenges and inefficiencies.

First, this process reduces the likelihood that the parties will consent to magistrate judge jurisdiction. Under D.C.COLO.LAPR 72.2(d), the parties must file a consent/non-consent form 45 days after the administrative record is filed. At that time, the parties are still unaware of which magistrate judge they would be consenting to. Although SSA has historically consented to

magistrate judge jurisdiction in this district, many plaintiffs have not, which has contributed to only about half of fully briefed social security appeals being decided by magistrate judges between 2019 and 2021. This topic was discussed in a recent report from Magistrate Judge Hegarty, who highlighted the district's declining rate of consent and the resulting impact on the Court's workload.[1]

Second, because the merits judge is not assigned until after briefing is complete, the process inhibits the ability of the parties to address issues of concern or interest for the assigned merits judge. For example, in drafting briefs, the parties cannot focus their arguments on matters known to be of concern to the assigned merits judge, such as by evaluating and citing to decisions from that judge. The parties also cannot consider the merits judge's known experience and familiarity with particular aspects of social security appeals in deciding whether to include or omit additional legal background. We believe that earlier notification of the assigned merits judge would improve the quality and usefulness of the briefing from the perspective of the assigned merits judge and could also result in shorter briefs.

To address these issues, we propose amending the Local Rules so that the parties would be notified which judicial officers will be assigned at an earlier stage of the case—that is, following the completion of pre-merits management, but *before* the briefing stage and before the expiration of the time to consent to magistrate judge jurisdiction. We believe this goal could be accomplished by conducting the random selection of the merits judge at an earlier stage.

To be clear, under our proposal, even after the random selection process, the case would remain with the pre-merits district judge until briefing is complete. But under our proposal, the parties would be informed of the identity of the randomly selected merits judge *before* the consent deadline passes and before the briefing begins, and thus could make informed decisions about whether to consent and how to best present their briefing. We believe this small tweak to the rules would permit the parties to brief more efficiently. We believe it also would likely increase the likelihood of unanimous consent to magistrate judge jurisdiction, while still maintaining the efficiency of the pre-merits management process.

We would welcome *any* approach that would enable the parties to know, before the briefing stage and the expiration of the deadline to consent to magistrate judge jurisdiction, the identity of the assigned judicial officers. We appreciate that adjusting the timing of notification of the assigned merits judge could interact with and affect other local rules and that there may be

[1] *See* Hon. Michael E. Hegarty, *2021: The Year in Review*, U.S. District Court, District of Colorado, at 41-44 (August 26, 2022), *available at* https://www.facultyfederaladvocates.org/resources/9-21-22%20Materials.pdf (last visited May 31, 2023).

different ways to accomplish this goal. *See* D.C.COLO.LAPR 10.3 (governing the opening of an AP case), D.C.COLO.LAPR 16.1(d) (provisions for terminating an AP case designation).

For example, we propose the following revision as a potential option, as shown in bold italics:

OPTION ONE

D.C.COLO.LAPR 10.3
AP DOCKET

Opening an AP Case. On proper commencement of an AP case under Subdivision (a), (b), or (c) of D.C.COLO.LAPR 10.2, the clerk shall open a case and assign a case number without random selection under D.C.COLO.LCivR 40.1(e). ***Upon assigning an AP case number in a social security appeal, the clerk shall randomly select judicial officers pursuant to D.C.COLO.LCivR 40.1(a). Upon that selection, the clerk shall serve notice on the plaintiff and defendant of the identity of the randomly selected judicial officers. The clerk will assign the case to those randomly selected judicial officers after termination of the AP case designation under D.C.COLO.LAPR 16.1(d).***

D.C.COLO.LAPR 16.1
AP CASE MANAGEMENT

(d) Termination of AP Case Designation. On completion of pre-merits management, designation as an AP case shall terminate. ***Social security appeals shall be assigned to the judicial officers who were previously selected under D.C.COLO.LAPR 10.3. All other AP cases*** ~~and the case~~ shall be assigned under D.C.COLO.LCivR 40.1. For good cause, designation as an AP case may be terminated before the completion of pre-merits management on motion of a party or sua sponte by the district judge designated for pre-merits management under D.C.COLO.LCivR 40.1(e).

D.C.COLO.LAPR 72.2
CONSENT JURISDICTION OF A MAGISTRATE JUDGE

(e) Assignment. On entry of an order of reference under 28 U.S.C. § 636(c) ***in a social security appeal, the appeal shall be assigned to the magistrate judge selected under D.C.COLO.LAPR 10.3 effective upon the completion of pre-merits management. In all other AP cases, on entry of an order of reference under 28 U.S.C. § 636(c)***, the appeal shall be assigned under D.C.COLO.LCivR 40.1(a) to a magistrate judge effective on completion of pre-merits management.

* * *

Another potential option would be the following proposed revision:

OPTION TWO

D.C.COLO.LAPR 16.1
AP CASE MANAGEMENT

(a) Joint Case Management Plan. A scheduling conference under D.C.COLO.LCivR 16.1 shall not be conducted. In all AP cases, except social security appeals and bankruptcy appeals, the parties will be directed to file a Joint Case Management Plan (JCMP). The form of JCMP for review of agency action in AP cases, including environmental cases, is HERE.

(b) Notification of Judicial Assignment in Social Security Appeals. Upon assigning an AP case number to a social security appeal pursuant to D.C.COLO.LCivR 40.1(e) and D.C.COLO.LAPR 10.3, the clerk shall randomly select judicial officers pursuant to D.C.COLO.LCivR 40.1(a). Upon that selection, the clerk shall serve notice on the plaintiff and defendant of the identity of the randomly selected judicial officers. The clerk will assign the case to those randomly selected judicial officers after termination of the AP case designation under D.C.COLO.LAPR 16.1(e).

(~~b~~ *c*) Briefing Schedule for Social Security Appeals.

(1) Briefing Schedule. Unless otherwise ordered, the opening brief of the plaintiff shall be filed no later than 40 days after the Commissioner files the administrative record. The response brief of the Commissioner shall be filed no later than 70 days after the filing of the administrative record. The plaintiff may file a reply brief no later than 85 days after the filing of the administrative record.

(2) Page Limitations. Unless otherwise ordered and excluding the cover page, jurisdictional statement, table of contents, statement of facts, and procedural history, opening and response briefs shall be no more than 20 pages, and reply briefs shall be no more than 10 pages.

(~~c~~ *d*) Motions for Summary Judgment. Motions for summary judgment shall not be filed.

(~~d~~ *e*) Termination of AP Case Designation. On completion of pre-merits management, designation as an AP case shall terminate. ***Social security appeals shall be assigned to the judicial officers who were previously selected under D.C.COLO.LAPR 16.1(b). All other AP cases*** ~~and the case~~ shall be assigned under D.C.COLO.LCivR 40.1. For good cause, designation as an AP case may be terminated before the completion of pre-merits management on motion of a party or sua sponte by the district judge designated for pre-merits management under D.C.COLO.LCivR 40.1(e).

D.C.COLO.LAPR 72.2
CONSENT JURISDICTION OF A MAGISTRATE JUDGE

(e) Assignment. On entry of an order of reference under 28 U.S.C. § 636(c) ***in a social security appeal, the appeal shall be assigned to the magistrate judge selected under D.C.COLO.LAPR 16.1(b) effective upon the completion of pre-merits management. In all other AP cases, on entry of an order of reference under 28 U.S.C. § 636(c)***, the appeal shall be assigned under D.C.COLO.LCivR 40.1(a) to a magistrate judge effective on completion of pre-merits management.

* * *

We greatly appreciate the opportunity to provide comments.

From:
Sent:
To: LocalRule Comments
Subject: Local Rules Comment Provided by the Justice and Mercy Legal Aid Center of Denver Colorado

Good Afternoon,

My name is Shelly Dill and I am both a licensed attorney within the State of Colorado and the Director of the Pro Bono Project at the Justice and Mercy Legal Aid Center. Over the last 2.5 years the Pro Bono Project has helped more than 125 clients, who could not otherwise afford to have an attorney and who are more than 125% below the poverty line, find attorneys who are willing to help them in a pro bono capacity. We match clients in a variety of civil legal needs be they immigration, protection orders, dissolutions, name changes, criminal record sealing, landlord tenant matters, and importantly for purposes of this commentary, chapter 7 bankruptcy petitions. Most of the clients that we serve are victims of violent crime or domestic violence and frequently need the services that we offer so that they can move forward into their new life away from past abuse.

For the chapter 7 bankruptcy cases, we have several current volunteer attorneys that are licensed, have their own practice, with firms that regularly engage in bankruptcy proceedings on behalf of the Pro Bono Project. These attorneys are licensed to practice in the local bankruptcy court and do not have challenges in access to the courts. However, we also have several retired attorneys who do not have active licenses and in one case a retired bankruptcy trustee who would be eager to volunteer in the Pro Bono Project but cannot access the courts to assist such clients. They are precluded from such volunteering based on the current local rules that do not allow such individuals to appear in federal bankruptcy court. They also face the barrier of the cost of the separate fees associated with being licensed to practice in federal bankruptcy court that are quite high. Their desire is to practice exclusively on behalf of those who cannot afford an attorney but, unfortunately, that does not justify paying the licensure fees.

The State of Colorado has rules that allows senior, retired attorneys to work under the auspices of a non-profit organization. Such attorneys either pay no annual registration fee or their fee is reduced. The non-profit organization provides a letter in support of the individual and their pro bono work. The State also has a rule that allows lawyers that are not otherwise affiliated with a law firm to provide pro bono services. Our clients have routinely utilized and benefited from these rules in state court regarding a variety of civil legal needs. However, it is my understanding that federal bankruptcy court has not adopted similar rules. I am writing to assert that we believe there is a compelling need to allow more attorneys to operate within the bankruptcy court for pro bono purposes. Our organization would like to support these attorneys, including those who are retired or not otherwise affiliated with a law firm, and specifically connect them to clients that need help filing chapter 7 bankruptcy cases. We firmly believe that some type of rule change or rule adoption that supports this type of pro bono volunteering would be a positive step for the local bankruptcy court to increase equal access to the courts. We also think we should make such a volunteer proposition affordable and even free to the lawyer that is seeking to give of their services. Whether the local rule changes are focused specifically on senior attorneys, on attorneys that are not affiliated with a local firm, or on waiving or reducing the cost associated with registration fees for attorneys that do a certain amount of pro bono work, each of these rule changes and/or adoptions would diminish barriers to pro bono volunteering. I have had several lengthy conversations with Ed Butler about these ideas and the work of the Pro Bono Project. At his suggestion, I have provided this commentary today and want to specifically support the idea of rule changes that make it easier for lawyers at all stages to volunteer within federal bankruptcy court.

I am happy to provide you with additional information about the Justice and Mercy Legal Aid Center's Pro Bono Project or discuss our ideas in further detail. Thank you for considering our comments in your upcoming local rule review meeting next month.