FFA Faculty of Federal Advocates

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Winter 2023 Newsletter

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Welcome to the Faculty of Federal Advocates

Winter 2023 Electronic Newsletter

www.facultyfederaladvocates.org

The Newsletter brings you news about FFA events and CLE programs along with useful information for federal practitioners, including links to relevant websites. The FFA welcomes contributions to our Newsletter from our membership.

Newer attorneys, experienced attorneys, and law students are all encouraged to submit articles. If you are interested in submitting an article to be considered for publication, please contact the FFA by emailing Executive Director Dana Collier at: dana@facultyfederaladvocates.org.

Investigators in Criminal and Civil Litigation: Ethics and Best Practices

By Ann Luvera

Panelists discussed the role of investigators in civil and criminal cases. The panelists included Matthew Kirsch (U. S. Attorney's Office, Colorado), Caitlin McHugh (Lewis Roca, LLP), Jeffrey Pagliuca (Haddon Morgan and Foreman, PC), and Michael Rankin (Private Investigator, Bluestone Investigative & Risk Solutions, LLC). The primary takeaway was that investigators can make positive case contributions when utilized appropriately.

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Mission of the Faculty of Federal Advocates

The Faculty of Federal Advocates (FFA) is an organization of attorneys dedicated to improving the quality of legal practice in the federal courts in Colorado by enhancing advocacy skills, professionalism, and the integrity of practice.

The FFA provides continuing legal education classes, mentoring and pro bono opportunities, and other support services to foster and demonstrate commitment to the highest standards of advocacy and professional and ethical conduct. The FFA promotes support, mentorship, education, and camaraderie for

Some of the **tools** utilized by investigators to obtain information or identify assets include:

- Internet/Google
- Public Databases
- Law enforcement databases
- Subscriber-based databases
- Algorithms
- Social media
- Interviews
- Surveillance (expensive or ineffective)
- Searching trash
- Consensual intercepts/telephone calls
- Cameras
- Drones

Why use investigators, and whom should you hire?

Investigators are practical and cost effective because their billable rate is generally lower than attorneys' rates. They also have different skill sets than attorneys. Many good investigators have prior experience in law enforcement or agency investigations. As the first face of your team, the ideal candidate should possess good interpersonal skills (ability to establish rapport), tenacity, and an ability to communicate effectively. Other considerations are whether the investigator understands the parameters around what to reduce to writing and what constitutes work-product. If case appropriate, trauma-informed experience, familiarity with the locality, and ability to work different angles may also be important.

Setting Yourself Up for Success

Effective Communication

Once you have determined your needs, have a detailed discussion with your investigator. This discussion should include the crimes that were committed, the statutes that were violated, the elements of the particular crimes, the relevant course of conduct, and the type of evidence sought. You should also discuss strategies such as whether the investigation is covert and how long it should remain covert. In addition, discuss what tools will be utilized during the investigation and whether target notification is necessary. If the investigator will be obtaining information through grand jury, search warrants or wiretaps, discuss what thresholds you need to meet in order to obtain information.

federal court practitioners.

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Quick Links

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U.S. Supreme Court

U S. Court of Appeals 10th Circuit

U.S. District Court District of Colorado

U.S. Bankruptcy Court, District of Colorado

U.S. Attorney's Office Colorado

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Colorado State Courts

Our Courts

Ethical Considerations

Ensure that your investigator is aware of ethical issues. Inform the investigator that before communicating with represented parties, he must notify an attorney.

Emphasize that undercover activities must be lawful. Ensure an understanding of entrapment and the attorney-client privilege.

Discuss *Brady*.

Role of Defense Investigator

Your strategy for utilizing an investigator may differ depending on whether charges have been filed.

If charges are not filed, have the investigator schedule a meeting with law enforcement for the purpose of ascertaining preliminary information, including the identity of the complainant and the date of the incident. Then conduct interviews with friends or others who may be able to discredit the law enforcement investigation.

If charges have been filed, meet with your client and investigator so that the investigator can begin creating a bond with the client. Have the investigator obtain and review discovery.

Create a plan.

Reports/Engagement letter

Assume your engagement letter is discoverable.

Determine whether you want written or verbal reports from your investigator and communicate your preference. Be specific in what information should be memorialized in a report. Discuss work-product and the difference between facts and mental impressions. Also discuss the level of detail you require including what information *must* be included and what information is not required.

Let your investigator know how frequently he or she should check in and how they should communicate with you (in-person, by telephone or by email/text message).

Brady

Discuss *Brady* obligations with the agent so that *Brady* material can be identified and disclosed. Explain that text and email communications are treated no differently and that any such disclosures must be memorialized in

a report. Instruct the agent that he or she should not communicate any information regarding witness statements or facts via text or email but instead should memorialize this information in a report. Instruct the agent that text and email messages should be limited to requesting meetings or other scheduling matters.

Avoid mistakes.

Be clear about how you want reports written, including what information you need. Define the scope of the task with full context. This can be accomplished by providing pleadings and documents or by having a conversation. Remember that ongoing communication is important. Keep in mind that the state does not require licenses for investigators. Due diligence is a must.

Represented Parties and the Use of Deception

Review ethical rules and opinions regarding speaking with represented persons and the use of deception.

Be careful to avoid running afoul of the rules of professional conduct when utilizing social media to gather information. Because attorneys are prohibited from engaging in deceptive behavior, limit social media activity to looking at information that is public. Otherwise, such activity could be construed as deceptive or an attempt to contact a represented party. Be wary of "friending" someone or searching for information by joining private groups.

There is a distinction between using deception in civil and criminal investigations. In civil cases, the use of deception is generally not effective and carries too much risk. Before allowing an investigator to engage in deceptive conduct, be sure to perform a cost/benefit analysis. Be aware that generally the calculus does not weigh in favor of deceptive practices.

In criminal cases, it is both proper and common for law enforcement to use covert/deceptive tactics. In fact, it is often required for effective criminal prosecutions. Remember, however, that it is improper for an attorney to engage in deceptive tactics (RPC 4.1 and 8.4c). In addition, RPC 4.2 generally prohibits contact with represented persons. There is a distinction before a case is filed and after a case is filed. If a case has not been filed, you may contact a represented person with the consent of their lawyer, if authorized by law or court order or if part of lawful investigative activity. Such contact is more limited after charges are filed. After charges are filed, contact is limited to situations where there is new or continuing criminal activity, there is an imminent threat to people, or if perjury or witness tampering is involved.

Other Considerations

Ensure that the investigative activity is lawful. Eavesdropping is not lawful. Do not instruct someone to do something illegal. Be mindful of whether the state allows consensual intercepts.

Even if investigative activity is lawful, determine whether you want your investigator engaged in deceptive activity. Evaluate the cost including how it may impede the investigator's ability to gain trust and determine how such conduct will be perceived by a jury.

Determine whether deceptive tactics will harm reputations or relationships. Make sure you provide guidance and set parameters. Also be mindful of disclosure requirements.

Click HERE for the written materials from this program.

Tips for Appearing before U.S. Magistrate Judges in the District of Colorado

By Anne H. Turner

On July 27, 2023, Magistrate Judges Maritza Dominguez Braswell and N. Reid Neureiter spoke to the Faculty of Federal Advocates about appearing before magistrate judges in the United States District Court for the District of Colorado. While magistrate judges may diverge at times in their preferences, some universal tips that they shared will assist attorneys appearing before them.

1. Magistrate Judges vs. District Court Judges

Magistrate Judge Neureiter explained how cases are assigned to magistrate judges. When a new case is filed, it goes on a wheel. If the case is directly assigned to a magistrate judge and the parties consent to magistrate judge jurisdiction, then the magistrate judge can adjudicate the entire case. Appeals from such cases go directly to the Tenth Circuit. If the case is not directly assigned to a magistrate judge, it will be assigned to a district court judge and then a magistrate judge. The parties still may consent to magistrate judge jurisdiction in such cases, and if they do, then the district court judge is taken off the case. If the parties do not consent to magistrate judge jurisdiction, the district court judge commonly will refer the case to the magistrate judge to hold a scheduling conference, to handle discovery disputes, and sometimes, depending on the district court judge, to issue a report and recommendation on dispositive motions.

After the deadline to consent to magistrate judge jurisdiction, parties still may consent to magistrate jurisdiction for certain issues. For example, if a dispositive motion has been sitting with a district court judge for a lengthy period of time, the parties may submit a consent to magistrate judge jurisdiction for a determination of the motion, subject to approval of the assigned district court judge.

Sometimes magistrate judges are the only judges attorneys see on a case. The magistrate judge likely is more familiar with your case than the district court judge. But the information you convey to the magistrate judge about your case can make its way to the district court judge. In fact, Magistrate Judge Dominguez Braswell shared that a district court judge recently contacted her about a case to which they both were assigned, to ask about the background on the case and solicit her input on where it should go procedurally.

Typically, a case will be litigated faster by a magistrate judge. But all of the judges work off of the six-month list, which imposes soft deadlines of March 31 and September 30 for decisions on pending motions. The list, published by the Administrative Office of the U.S. Courts, identifies cases that have been pending for more than three years and dispositive motions that have been pending for more than six months. To make the list, a dispositive motion must have been pending across both the March and September deadlines. Thus, litigants may find that judges issue a flurry of decisions in March and September. Magistrate judges try to issue decisions on referred motions one month ahead of the March 31 and September 30 deadlines, so that the district court judge has some time to issue a decision and avoid the six-month list.

Magistrate Judge Dominguez Braswell reported that she personally pays more attention to dispositive motions filed in cases where the parties have consented to magistrate judge jurisdiction. She suggested that her clerks draft for her review the report and recommendations on referred dispositive motions. Magistrate Judge Dominguez Braswell may order oral argument when she requires additional clarification. If the parties ask her for oral argument, she will most likely grant it.

According to Magistrate Judge Neureiter, cases to which the parties have consented to magistrate judge jurisdiction similarly are his highest priority. He holds oral argument on practically every contested motion. Holding oral argument allows him to issue orders from the bench, which expedites resolution.

2. Practice Standards

There have been a lot of changes in the District bench in the last five years. The judges do not have uniform practice standards. They can vary widely on font, page limits, exhibit labeling, etc. Thus, in addition to knowing the

Federal Rules of Civil Procedure and the local rules, attorneys must read their judges' practice standards carefully.

Indeed, Magistrate Judge Dominguez Braswell, who has been on the bench for about a year, reported that she is constantly reconsidering her practice standards as her experience grows. For example, she has added a "pro se summary" to her orders that is designed to convey in layman's terms the substance of her order. In addition, the judges talk to one another about practice ideas. Magistrate Judge Dominguez Braswell welcomes questions from attorneys during conferences about what she would like parties to address in anticipated motions.

3. Discovery

a. Scheduling Conferences

Magistrate Judge Dominguez Braswell does not hold a scheduling conference in every case. She will hold a scheduling conference if the parties request one, if there are meaningful disputes revealed in the proposed scheduling order, if the case is particularly complex, or if there already are discovery disputes brewing. If a scheduling conference is set, attorneys should come prepared to discuss the case.

Magistrate Judge Dominguez Braswell actively manages discovery through the setting of deadlines in the scheduling order. In her opinion, an ordinary case should not require more than six to seven months for discovery. If parties file a motion to amend the scheduling order, she typically will hold a hearing on it to determine whether the parties have been diligent in the time allotted. Setting shorter deadlines allows her to check in on the progress of the case.

By contrast, Magistrate Judge Neureiter holds a scheduling conference in every case because it allows him to impose some rationality and proportionality on the discovery process. For example, the presumptive number of depositions under the rules (ten per side) likely is disproportionate to the needs of a simple slip and fall case or insurance bad faith case. In addition, the scheduling conference is not a conference just to "get dates." Magistrate Judge Neureiter will ask substantive questions about, for example, the witnesses and documents actually needed in discovery to prepare the case for trial and the bases for the affirmative defenses asserted. Magistrate Judge Neureiter disapproves of the generic list of affirmative defenses that defendants recite in the proposed scheduling order that, in fact, have no bearing on the case.

Both Magistrate Judges expressed that their objective is to get the parties through the discovery process as quickly as possible so that they can get a trial date from the district court judge.

b. Discovery Disputes

Except with respect to third parties, motions to compel or motions to quash are prohibited as a first step in a discovery dispute. Every magistrate judge has a slightly different process when handling discovery disputes, so adherence to the practice standards is particularly important.

Magistrate Judge Dominguez Braswell believes in true conferral. She requires a joint email to chambers. If the email is sufficient to appraise her of the issue, she may then hold a brief hearing and rule from the bench. Sometimes she also requires a joint discovery dispute report and/or chart. Her goal is to resolve discovery disputes utilizing as little paper as possible. Giving the parties guidance on the front end of the litigation has enabled her to avoid many discovery disputes.

Magistrate Judge Neureiter requires meaningful conferral and then a joint call to chambers to set the matter promptly for a discovery dispute hearing, usually within seven to ten days. In advance of the hearing, the parties must submit a joint statement of the discovery dispute. He will decide the dispute on the record at the hearing. Sometimes, but rarely, briefing the issue may be warranted. If so, the parties may ask to brief it at the hearing.

To increase the odds of success on a discovery dispute in front of Magistrate Judge Dominguez Braswell, professionalism is key. Ad hominem attacks on your opponent are a turn off. Picking your battles and being thoughtful about where to draw the line is the mark of a sophisticated lawyer. She takes proportionality very seriously and finds burden arguments very persuasive. Reasonableness will be rewarded. Don't unreasonably interpret written discovery requests too narrowly. When she schedules a video conference, she expects people to appear by video and treat it as a true court appearance. She encouraged attorneys to use Requests for Admission more frequently to narrow discovery.

Magistrate Judge Neureiter agrees that virtual court appearances (by phone or video) are court appearances. You must be on the call one to two minutes before the appointed time. If you are late, you may be sanctioned.

Magistrate Judge Neureiter particularly dislikes in camera review requests. If the documents are voluminous, he will order a special master. He also disapproves of unnecessary redactions. Fight about admissibility at trial, not in discovery. Be detailed in your privilege log; it can preempt discovery disputes. Make clear in your responses to written discovery requests whether you are withholding anything in response. The more detail in Rule 30(b)(6) deposition notices, the better.

Finally, sanctions are available for discovery abuses pursuant to Rule 37.

4. Final Pre-Trial Conference

Magistrate Judge Dominguez Braswell looks for reasonable witness and exhibit lists at the Final Pre-trial Conference. The parties should stipulate as much as possible to authenticity and admissibility of exhibits. There should only be a handful of documents that need to be addressed.

Click HERE for the written materials from this program.

Best Practices for Finding and Vetting Experts in Civil Litigation

By Robert J. Shilliday III

Sundeep K. (Rob) Addy addressed the process of identifying, vetting, and hiring expert witnesses in federal civil litigation.

Identifying Experts. Parties generally may group experts into testifying or consulting expert witnesses. The opinions of a testifying expert must be disclosed as required under Federal Rule of Civil Procedure 26(a)(2)(B). A testifying expert witness can be either retained or non-retained. For a retained expert witness, *i.e.*, a witness retained or specially employed to provide expert testimony in the case or a witness whose duties as a party's employee regularly involve giving expert testimony, the expert disclosure must be accompanied by an expert report prepared and signed by the expert witness. Fed. R. Civ. Proc. 26(a)(2)(B). The written report must disclose: (a) a complete statement of all opinions the witness will express and the basis and reasons for them, (b) the facts or data considered by the expert witness in formulating them, (c) any exhibits used to summarize or support the expert opinion, (d) the qualifications of the expert witness, including a list of publications authored in the past ten years, (e) a list of other cases in which the expert witness testified at trial or by deposition during the previous four years, and (f) a statement of compensation to be paid to the expert witness for study and testimony in the case. *Id*. For a non-retained testifying expert witness, a party must disclose: (a) the subject matter on which the expert witness is expected to testify under Federal Rule of Evidence 702, 703, or 705, and (b) a summary of the facts and opinions for which the witness is expected to testify. Fed. R. Civ. Proc. 26(a)(2)(C). Testifying experts are subject to the limitations of *Daubert* and may be deposed before trial.

A party need not disclose the opinions of a consulting expert. A consulting expert will not testify at trial. Consulting experts are useful to validate or disprove assumptions or case strategies without revealing such work to the opposing party. Consulting experts are typically less expensive.

Testifying experts generally fall into three groups: the “rookie,” the “semi-professional,” and the “professional.” A rookie is a first-time expert witness, is typically less expensive, but will require more instruction and attention by the attorney. The rookie expert witness may appear less of a “hired gun” to the trier of fact, but lack of experience may translate to ineffective testimony or less credibility. The semi-professional expert, such as a professor, can be more cost-effective, but typically has fewer staff members and is less flexible than a professional expert. Semi-professional experts also can be more credible to the trier of fact. The “professional” expert, on the other hand, typically has large support staffs and can be expensive. Professional experts require little or no hand-holding from the attorney, but the opinions generated can be perceived as coming from a black box and may generate opinions unfavorable to the retaining party. Professional experts also can be seen as “hired guns” with less credibility. Mr. Addy reminded litigators to consider “company experts,” current employees of a party having specialized knowledge or skill who can provide credible and cost-effective expert testimony at trial.

To effectively identify an expert witness, the attorney should first ask the client about known individuals in the subject field or industry having specialized knowledge on the subject matter. Become familiar with and learn how to search scientific databases and publications, such as Medline or JSTOR. Look for professors with teaching awards or excellent student evaluations. Finally, the attorney should endeavor to become familiar with and well-versed in the subject matter requiring expert testimony. Litigants, however, should avoid using expert witness search firms.

Vetting Experts. Mr. Addy stressed that verifying an expert’s qualifications is essential to vetting a potential expert witness. Attorneys should question and verify what otherwise appear to be small embellishments on an expert’s *curriculum vitae*. Even small embellishments or exaggerated statements, such as awards or experience the expert in fact does not possess, can be devastating to the expert’s credibility at trial.

Mr. Addy encouraged attorneys to understand and focus upon what communications with an expert are protected from disclosure. Communications with consulting or testifying experts generally are protected from disclosure subject to several important limitations. Under Federal Rule of Civil Procedure 26(b)(4)(C), communications between the party’s attorney and any expert witness required to provide a report under Rule 26(a)(2)(B), regardless of the form of the communication, are protected, except for communications that: (a) relate to the expert’s compensation for study or testimony, (b) identify facts or data that the party’s attorney provided and the expert considered in forming the opinions to be expressed, or (c) identify the assumptions that the party’s attorney provided and the expert relied upon in forming the opinions to be expressed. In addition, Federal Rule of Civil Procedure 26(b)(4)(D) provides that an opposing party may not discover facts known or opinions held by a consulting expert except: (a) in connection

with a physical or mental examination as provided in Rule 35(b), or (b) in "exceptional circumstances under which it is impracticable for a party to obtain facts or opinions on the same subject by other means."

Mr. Addy cautioned attorneys to investigate an expert's potential conflicts of interest. Expert witnesses are not subject to the same conflict standards applicable to attorneys. However, an expert's conflicts of interest may lead to disqualification. Federal courts have the inherent power to disqualify expert witnesses to protect the integrity of the adversary process, protect privileges that otherwise may be breached, and promote public confidence in the legal system. *See English Feedlot, Inc. v. Norden Laboratories, Inc.*, 833 F. Supp. 1498, 1501 (D. Colo. 1993). The party seeking disqualification must show: (a) the existence of a confidential relationship with the expert, and (b) the disclosure of confidential information to the expert relevant to the instant litigation. *Id*. The party seeking to disqualify an expert bears the burden of proof. *Id*.

Hiring Experts. Mr. Addy emphasized the importance of obtaining a written retainer agreement with an expert witness identifying the party retaining the expert and detailing the scope of work and payments terms. The retainer agreement should be between the expert and the client, not between the expert and law firm. Expert witness contingency fees should be avoided. Some federal courts deem a contingency fee with an expert witness to be grounds for disqualification, while other courts allow the factfinder to assess the credibility of an expert witness compensation through a contingency fee agreement. The Tenth Circuit to date has not ruled on this issue. Colorado ethics rules provide that it is improper to compensate any witness through a contingency fee. Colo. R. Prof. Cond. 3.4(b), comment [3]. Colorado courts, however, do not have a *per se* exclusion of expert witnesses compensated through a contingency fee.

Attorneys should prepare and agree to a budget with the expert at the outset of the representation. Prepare a plan for the expert's representation. The plan should include details such as who will prepare the first draft expert report. Hold the expert witness to the budget and do not shy away from pushing back on excessive expert witness fees.

Click HERE for the written materials from this program.

2022 Year in Review: U.S. District Court for Colorado
By Barbara Carr

United States Magistrate Judge Michael E. Hegarty presented statistics on the District's operations in 2022, as compiled in the 2022: Year in Review for the United States District Court District of Colorado Report. The 91-page

Report contains valuable information to set client expectations about litigating in the District.

The Report may be accessed HERE.

Twelve notable statistics from Magistrate Judge Hegarty's presentation are:

- The District remains one of the busiest district courts in the nation, with 3,374 civil cases filed and 3,542 closed. As for criminal cases, 2,505 cases were filed and 2,090 were closed. *Id.*

- In December 2022, active District Judges had 1,636 civil cases pending, which averages to **233.71 civil cases per active District Judge**.

- At the end of 2022, the **average civil caseload per full-time Magistrate Judge was about 331 cases** (consent and referred). This number excludes assigned criminal cases.

- More than one-third of the civil cases filed in 2022 were civil rights cases (37.29%), followed by contracts (19.39%) and torts (9.84%).

- Felony cases continue to decline from the high of 598 new felony cases filed in 2018 to 376 in 2022.

- In 2022, the District tried 56 cases to verdict, four more than in 2021. Fifty-one of the 56 cases were tried to a jury (29 civil and 22 criminal). *Id.* Of the five bench trials in 2022, three were civil and two were criminal. *Id.*

- For 2022, the **average duration between the filing of a civil complaint and the first day of jury trial was 43.27 months, about three years and seven months.**

- The trial rate, which compares civil jury trials with verdicts (29) to the number of civil cases filed (3,374) for 2022, was 0.86%. **To put context around this statistic, only eight in one-thousand civil cases filed will be tried.**

- In 2022, plaintiffs won 15 of 29 civil jury trials that reached a verdict (51.72%) while defendants won 10 of 29 (34.48%). The remaining four trials had split verdicts. *Id.* A chart summarizing the civil trial jury verdicts in 2002 from highest to lowest appears at pages 27 through 29 of the Report.

- Appeals were filed following 12 of the 29 civil trials (41.38%). In 2022, the Tenth Circuit reversal rate circuit-wide for all appeals was 3.95%. *Id.,* p. 90. For the past 20 years, **the overall reversal rate for District**

cases was 5.23%. *Id.,* p. 91. **The time from filing a notice of appeal to the last appellate opinion or order was 9.7 months**. *Id.*

- The average number of months from filing any summary judgment motion to the order ruling on the merits was 7.72 months. Magistrate Judge Hegarty shared his chambers' internal rule: enter the order ruling on the merits within three months of the filing of the last brief on the summary judgment motion.

- Magistrate Judge Hegarty asked every practitioner to read Section XIII on Alternative Dispute Resolution and ask for a settlement conference. He senses the success rate is about 80%!

Unprecedented turnover in both District and Magistrate Judges and open positions in the District have increased demands on the active judges. Seven of eight Magistrate Judges have been appointed in the last seven years. Similar statistics apply to the District court bench. See Report, pp. 5-7. Practitioners should prepare to quicken the pace of litigation. Some judges will be offering trial dates within months of filing the complaint. Magistrate Judge Hegarty emphasized knowing and frequently revisiting the Local Rules and the judge's practice standards.

In response to a question about what practitioners who have been waiting over six months for a decision can do to put the long-pending motion on the court's radar, Magistrate Judge Hegarty offered these ideas:

  - File a motion for a status conference;
  - File a motion requesting oral argument on the long-pending motion;
  - File an emergency motion if circumstances warrant, e.g., client is terminally ill and nearing death; and
  - If all parties consent, file a motion to assign the long-pending motion to a magistrate judge for final determination under D.C.Colo.LCivR 72.3.

Magistrate Judge Hegarty encouraged attorneys to register for the Civil Pro Bono Panel. Through the Panel, attorneys can help people—many of whom have meritorious cases—with legal representation, aid the court in the efficient administration of justice, especially given heavy caseloads, and enhance the attorney's trial skills. For more information about the Civil Pro Bono Panel, please click HERE. You can also find information about the Civil Pro Bono Panel Reimbursement Fund HERE.

The FFA extends its gratitude to Magistrate Judge Hegarty and his law clerk, Michelle Bradshaw, for preparing the Report.

Of Note from the United States District Court, District of Colorado

- **Now in Effect: Fee Schedule Changes Plus Local & Federal Rules Revisions**
  Updates to district court fees have been implemented in the District of Colorado per the Judicial Conference's approval. An updated Fee Schedule may be accessed on the Forms/Fees webpage HERE. Additionally, changes to local and federal rules went into effect on Friday, December 1, 2023. Visit the court's "Local Rules" page HERE for further information.

- **Notice – Judicial Practice Standards Updates**
  Several judicial officers in the District Court for the District of Colorado, including District Judge Regina M. Rodriguez, District Judge Charlotte N. Sweeney, District Judge Nina Y. Wang, District Judge Gordon P. Gallagher, Senior District Judge Christine M. Arguello, and Magistrate Judge Michael E. Hegarty, have updated their practice standards effective December 1, 2023. All parties with cases before any judges with revised practice standards should review these updates. The standards are available on the Court's website on the "Judicial Officers" page located HERE.

- **Public Notice Concerning the Reappointment of Magistrate Scott T. Varholak**
  The current term of office of United States Magistrate Judge Scott T. Varholak for U.S. District Court for the District of Colorado is due to expire on September 30,2024. The United States District Court is required by law to establish a panel of citizens to consider the reappointment of the magistrate judge to a new eight-year term. Written comments from members of the bar and the public are invited as to whether the incumbent magistrate judge should be recommended by the panel for reappointment by the court. Comments must be received by 5:00 p.m. on January 5, 2024. Read more HERE.

FACULTY OF FEDERAL ADVOCATES
UPCOMING EVENTS AND CLE PROGRAMS

Sign-up on our website at **www.facultyfederaladvocates.org**.

WEDNESDAY, JANUARY 17, 2024

12 NOON - 1:15 P.M.

"FFA EXPERT SERIES PART III: EXAMINING EXPERT WITNESSES AT TRIAL"

ANDREW H. MYERS, ESQ.
Wheeler Trigg O'Donnell, LLP

WEBINAR ONLY

In this third installment of the FFA's expert witness series, Andrew Myers will discuss best practices for working with experts at trial. The CLE will explore how to prepare experts to testify at trial, tips for direct examinations of experts, when to voir dire an opposing party's expert, and how to effectively cross-examine experts at trial. Andrew will share experiences from multiple trials in various jurisdictions in which he's worked closely with experts.

2 general CLE credits approved.

Click HERE to register for this program.

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WEDNESDAY, JANUARY 24, 2024

"(ALMOST) EVERYTHING YOU WANTED TO KNOW BUT WERE AFRAID TO ASK ABOUT FEDERAL COURT PRACTICE"

12 NOON – 1:15 P.M.

HON. CHARLOTTE N. SWEENEY
U.S. District Court, District of Colorado

Judge Sweeney will touch on the following topics and also leave some time for Q&A (so bring your questions!):

* Hearings on motions, including what to expect during these hearings and pointers for effective advocacy;

* Crafting persuasive objections to a magistrate judge's recommendations;

* Tips for putting together the Final Pretrial Order and preparing for the Final Pretrial Conference and Trial Preparation Conference;

* Initial discovery protocols for employment cases; and

* Understanding the workload of an Article III judge and how that impacts our practice.

2 general CLE credits approved.

Click HERE to register for this program.

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Have you been enjoying member discounts to our CLE programs and events? Have you benefited from those programs and other services provided by the FFA? If you answered “no” to these questions, you should consider being a part of the organization committed to enhancing the practice of law in Colorado’s Federal Courts!

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