



Eastern District of California Honors Pro Bono Attorneys, Volunteers

The majority of California’s state prisons are located within the jurisdiction of the United States District Court for the Eastern District of California. Not surprisingly, the number of Section 1983 cases filed with the court is disproportionately high in comparison to other federal district courts. In 2014, for example, there were a staggering 1,083 prisoner civil rights cases filed in the Eastern District. Those cases amounted to 22 percent of all the civil filings in the district.

Since 1988, the Eastern District has benefited from the contributions of a panel of pro bono attorneys willing to accept appointments in prisoner civil rights cases. These appointments were typically for the purpose of representing the inmate only at the later stages of the litigation. In 2009, the Eastern District began modifying the pro bono program as part of a prisoner case management strategy change. Sujean Park, director of the court’s ADR and Pro Bono Program, first surveyed pro bono



Sacramento attorney Kresta Daly received the 2014 Joe Ramsey Award from Chief District Judge Morrison C. England, Jr.

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Ninth Circuit Representatives Provide Training on Prisoner Mediation Programs

Beginning in 2000, district courts in the Ninth Circuit began using mediation and settlement conferences in prisoner civil rights cases. The courts experimented with pilot programs that included civil rights cases at the post-summary judgment stage. As successful settlement agreements were reached and the fears of the prison administrators diminished, the courts began expanding their programs. Referrals from judges were taken at the beginning of the case and courts began to appoint pro bono attorneys to represent

inmate plaintiffs in mediation sessions and settlement conferences. Programs in the districts of Idaho and Nevada and the Northern District of California paved the way for other courts.

Today, the prisoner mediation programs being used in eight district courts in the Ninth Circuit have drawn national attention. Ninth Circuit representatives have traveled across the country to

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Magistrate Judge Valerie Cooke of Nevada, left, and Denise Asper, prisoner litigation project director, Office of the Circuit Executive

provide training on use of mediation as a case management. Most recently, Magistrate Judge Valerie Cooke of Nevada and Denise Asper, who directs the Prisoner Litigation Project at the Office of the Circuit Executive, participated in the joint Pro Se Conference of the First, Second, and Third circuits. They presented a three-pronged strategy for creating successful prisoner mediation programs that includes 1) convening quarterly meetings with department of correction officials, deputy attorneys general, and inmate counsel; 2) creating a pro bono program for prisoner civil rights cases; and 3) implementing early mediation pilot programs.

Denise addressed recruitment, noting that attorneys are being asked to commit to different types of appointments, from all purposes to the limited purpose of representing prisoners in a mediation session. The Eastern District of California is illustrative of the creative ways in which counsel can assist a pro se prisoner in the early stages of litigation. She reported that use of early prisoner mediation programs produced a 35-40 percent settlement rate with no increase in prisoner case filings, which addresses corrections officials' fears that settling with one inmate will result in a flood of similar cases.

Judge Cooke outlined the steps used to convene meetings with officials of the Nevada Department of Corrections, deputy state

attorneys general, pro se law clerks, and academics to design a mediation pilot program and implement an effectiveness study. The early mediation program in Nevada provided volunteer mediators who convened sessions with inmates, correctional officials, and their attorneys via video conference. The program began in the Reno division but has since expanded throughout the state.

Quarterly meetings give stakeholders an opportunity to address their concerns and include feedback from the corrections officials and inmates. Judge Cooke worked with Dr. Jim Greiner at Harvard Law School to design and implement a study of Nevada's early mediation program. The program was subjected to a rigorous statistical analysis with a control and study group over a three-year period. Results are expected at the end of 2015. Nevada corrections officials saw great benefit in the program, which now includes all prisoner civil rights cases that survive screening.

The multi-circuit training also included a pro se law clerk from the Western District of Pennsylvania, Kimberly Chamberlin, who assisted Magistrate Judge Lisa Lenihan,

SUCCESSFUL SETTLEMENTS

Mediated settlements of prisoner cases have led to:

- Changes in religious worship policies
- Changes in chronic care for hepatitis C patients
- Resolution of prison population cap injunctive orders
- Modification of cell extraction policies in excessive force cases
- Accommodations for inmates with disabilities

in creating the prisoner mediation program there. Judge Cooke and Denise consulted with the district to design its program, which uses a model similar to Nevada's. They are also consulting with the District of Minnesota with its prisoner mediation program.

The Ninth Circuit is hopeful that studies showing the effectiveness of mediation for prisoner cases will lead the Administrative Office of the U.S. Courts to fully fund ADR efforts across the country. ●



Retired District Judge Vaughn R. Walker spoke at the FBA Sacramento Chapter event honoring pro bono attorneys and volunteers, pictured right, in the Eastern District of California.



panel attorneys focusing on training and recruiting efforts. The court then worked with the Sacramento Chapter of the Federal Bar Association and staff at local law schools to create a CLE training program designed to recruit additional panel members while continuing to support existing members.

The court's efforts were richly rewarded, resulting in an expanded pro bono panel whose members were willing to accept both full-purpose and limited-purpose appointments. The targeted appointment program has been used over the past several years to provide greater access to attorneys throughout prisoner Section 1983 cases, as well as some non-prisoner civil cases.

The court also wanted to recognize the pro bono attorneys. District Judge Kimberly J. Mueller felt strongly that the program would be enhanced by a recognition event. FBA chapter leaders responded enthusiastically to her idea, agreeing to sponsor a "Night to Honor Service" in 2010. All pro bono panel attorneys were invited to attend and those who had accepted case appointments were honored.

The first event was a casual mixer. Pro bono attorneys who had accepted a case during the year or were continuing to handle cases received a small award. In addition, their names were included in the honoree section of the event program and also listed in the Eastern District's annual reports, which are disseminated at the district conference.

Building on the success of the first event, a keynote speaker was added to the program for later events. Speakers have included former Associate Justice Cruz Reynoso of the California Supreme Court and retired U.S. District Judge Vaughn R. Walker of the Northern District of California.

In 2013, the court expanded the event to include volunteers from the court's Voluntary Dispute Resolution Program, or VDRP, which provides free mediation services to parties in civil non-prisoner cases. In 2014, the court invited the offices of the federal public defender and the U.S. attorney to nominate honorees from within their ranks. Attorneys

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from both offices, who had demonstrated a strong commitment to public service and pro bono work, were honored at the event. The court and FBA plan to include these agencies in future “Night to Honor Service” events and will continue to explore other ways to expand the opportunity for recognition.

The “Night to Honor Service” has also given the Eastern District legal community the opportunity to honor the legal legacy of Joe Ramsey, a former pro bono panel and VDRP member. Joe accepted several pro bono appointments and also helped resolve civil rights cases as a volunteer mediator. He has accepted cases other attorneys were not willing to take, including cases filed by plaintiffs subject to civil commitment under the Sexually Violent Predator Act. He became a role model for other pro bono panel members.

After Joe passed away in September 2012, the court convened a committee to establish an award in his honor. The first Joe Ramsey Service Award was given in 2013 to Donald Lancaster, Jr. Individual attorneys and law firms demonstrating exceptional commitment to the program are considered for the award, which is presented by the chief judge of the district. The presentation has become a highlight of the annual event.

The “Night to Honor Service” provided an excellent opportunity to collaborate with FBA members, the volunteers who serve the court, and the pro bono program staff. Including distinguished guest speakers from other courts provides an opportunity to highlight the methods being used in the Eastern District of California to provide counsel in pro se prisoner cases and helps recruit new panel members.

Please contact Magistrate Judge Kendall J. Newman or Sujean Park for more information about the “Night to Honor Service” and ideas on starting your own recognition program for pro bono attorneys and other court volunteers. ●

ADR Committee Members

Hon. Ricardo S. Martinez
Chair, District Judge, WAW

Ms. Denise M. Asper
Prisoner Litigation Project Director, OCE

Ms. Claudia L. Bernard
Chief Circuit Mediator

Ms. Cathy A. Catterson
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Hon. Christina A. Snyder
District Judge, CAC

Jonathan L. Wolff, Esq.
Senior Assistant Attorney General, CA

Committee Website and Newsletter Archive

www.ce9.uscourts.gov/committees/adr/



Office of the Circuit Executive

Cathy A. Catterson, Circuit & Court of Appeals Executive
P.O. Box 193939, San Francisco, CA 94119-3939
Ph: (415) 355-8900, Fax: (415) 355-8901
<http://www.ca9.uscourts.gov>

ADR Newsletter Staff:

David Madden, *Editor, Asst. Circuit Executive, Public Information*
Denise M. Asper, *Prisoner Litigation Project Director*
Katherine M. Rodriguez, *Communications Asst., Public Information*
Alex Clausen, *Graphic Artist, Public Information*