

No. 26-5308

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

ALLISON BARTON RICE,

Plaintiff-Appellant, pro se,

v.

CITY AND COUNTY OF SAN FRANCISCO, et al.,

Defendants-Appellees

On Appeal from the United States District Court
for the Northern District of California
No. 3:19-cv-04250 LB
Hon. Laurel Beeler

**APPELLEES' RESPONSE TO APPELLANT'S
MOTION TO APPOINT COUNSEL**

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Attorneys for Appellees

Appellee the City and County of San Francisco provides this response to assist the Court in resolving Appellant Allison Rice’s motion to appoint counsel and clarify that Rice already received and terminated pro bono counsel at an earlier phase of the case.

LEGAL STANDARD

“Appointment of counsel is only appropriate in ‘exceptional circumstances,’ which require an analysis of ‘the likelihood of success on the merits [and] the ability of the petitioner to articulate his claims pro se in light of the complexity of the legal issues involved.’” *See Siglar v. Hopkins*, 822 F. App’x 610, 612 (9th Cir. 2020) (quoting *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986)).

BACKGROUND¹

In the underlying case, Plaintiff-Appellant Allison Rice (“Rice”) alleged that the City and County of San Francisco (“City”) violated the Federal Fair Housing Act by (1) failing to accommodate his request for a rent-paying roommate in his Below Market Rate condominium, 42 U.S.C. § 3604, and (2) by unlawfully interfering with his rights under the statute, 42 U.S.C. § 3617. On June 22, 2023, a jury found against Rice on both counts, and the district court entered judgment in

¹ For a complete factual and procedural background, Appellees reference their Answering briefs in Cases Nos. 23-16013 and 24-2217.

the City’s favor on June 23, 2023. (Trial Dkts. 224, 225.) On June 2, 2026, this Court affirmed. (Case 23-16023, Dkt. 73.)

I. Appointment of Counsel In The Trial Court

On January 5, 2021, Plaintiff filed a letter with the district court requesting the appointment of pro bono counsel to represent him. (Trial Dkt. 75.) The district court referred the case to the Federal Pro Bono Project on January 27, 2021, and stayed the case pending appointment of counsel. (Trial Dkt. 85.) On June 2, 2021, the district court appointed pro bono counsel Durie Tangri LLP to represent Rice for “all purposes for the duration of the case.”² (Trial Dkt. 96.) The parties actively litigated the case, culminating in a four-day jury trial in June 2023. Rice was represented by counsel during trial. (*See e.g.*, Trial Dkts. 189, 213, 216, 216, 220, 222.) The jury found for the City on both claims, and the district court entered judgment on June 26, 2023. (Trial Dkts. 224, 225.)

II. Rice Terminated the Attorney-Client Relationship

Thereafter, on June 28, 2023, Rice terminated his pro bono representation voluntarily. (Trial Dkt. 226.) The motion to withdraw stated that “Plaintiff Allision Barton Rice respectfully requests that this Court grant leave to withdraw the appearances of Morrison & Foerster LLP and its attorneys in this matter.

² The appointed attorneys subsequently joined Morrison & Forrester LLP.

Plaintiff has terminated his attorney-client relationship with the attorneys of Morrison & Forrester LLP . . . and requested counsel file a motion to withdraw immediately. Plaintiff agrees to appear pro se unless and until additional counsel is retained” (Trial Dkt. 226.) The motion to withdraw was supported by a declaration from Rice. (Trial Dkt. 226-1.) The district court granted the unopposed motion and Rice’s counsel filed their notice of withdrawal. (Trial Dkts. 227, 228.) Rice then appealed. (*See* Case 23-16023.)

III. The Ninth Circuit Affirms

On June 2, 2026, this Court issued a Memorandum affirming the judgment. (Case 23-16023, Dkt. 73.) On June 5, 2026, Rice filed a petition for panel rehearing and rehearing en banc, and on June 18, 2026, he filed a motion for appointment of pro bono counsel. (Case 23-16023, Dkts. 74, 76, 77.) The Court denied the motions.³ (Case 23-16023, Dkt. 85.)

IV. Rice Files Another Appeal

Having lost his appeal, Rice then filed a motion for relief from judgment in the district court. (Trial Dkt. 288.) The district court denied the motion, and Rice filed this appeal. (Trial Dkt. 293.)

³ The Court did recently appoint counsel in Rice’s appeal of the cost award, Case Number 24-2217.

Dated: August 26, 2026

Respectfully submitted,

DAVID CHIU
City Attorney
RENÉE E. ROSENBLIT
Deputy City Attorney

By: /s/ Renée E. Rosenblit
RENÉE E. ROSENBLIT
Deputy City Attorney

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CITY AND COUNTY OF SAN
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**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 17. Statement of Related Cases Pursuant to Circuit Rule 28-2.6

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9th Cir. Case Number(s) 26-5308; 23-16013; 24-2217

The undersigned attorney or self-represented party states the following:

- ☐ I am unaware of any related cases currently pending in this court.
- ☐ I am unaware of any related cases currently pending in this court other than the case(s) identified in the initial brief(s) filed by the other party or parties.
- ☒ I am aware of one or more related cases currently pending in this court. The case number and name of each related case and its relationship to this case are:

Case Number 23-16013; Rice v. City and County of San Fransico, et al. Appeal of the jury verdict. Court affirmed.

Case Number 24-2217, Rice v. City and County of San Francisco, et al. Appeal of the cost award. Pending.

Dated: August 26, 2026

DAVID CHIU
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JENNIFER E. CHOI
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RENEE E. ROSENBLIT
Deputy City Attorney

By: /s/ Renée E. Rosenblit
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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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9th Cir. Case Number(s) 26-5308

I am the attorney or self-represented party.

This brief contains 642 words, excluding the items exempted by Fed. R. App. P. 32(f). The brief's type size and typeface comply with Fed. R. App. P. 32(a)(5) and (6).

I certify that this brief (*select only one*):

- ☒ complies with the word limit of Cir. R. 32-1.
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- ☐ is for a **death penalty** case and complies with the word limit of Cir. R. 32-4.
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CERTIFICATE OF SERVICE

I, ANNAMARIE DAVIS, hereby certify that I electronically filed the following document with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECFsystem on August 26, 2026.

**APPELLEES' RESPONSE TO APPELLANT'S
MOTION TO APPOINT COUNSEL**

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Executed August 26, 2026, at San Francisco, California.

/s/ Annamarie Davis

ANNAMARIE DAVIS