

December 20, 2004

Dear 18B Panelist,

This letter covers the following topics:

- Integrated Domestic Violence Court Training
- Being Relieved as 18B Attorney
- Defendants' Questionnaires
- Co-Counsel Panel

INTEGRATED DOMESTIC VIOLENCE COURT TRAINING

The Integrated Domestic Violence Court will begin in January, 2005. As previously discussed with you, in order to represent defendants on both the criminal and Family Court aspects, criminal panelists must receive cross training in Family Court practice and Family Court panelists must receive cross training in criminal court practice. Many of you have already advised me that you are interested in such training. The training dates and locations are as follows

CRIMINAL COURT TRAINING

- Session 1 – Thursday January 27, 2005 – Registration 1:00 PM
Conference Board Room 2nd floor Supreme Court 1:30 – 4:30 PM
- Session 2 – Thursday February 3, 2005 - Registration 1:00 PM
Conference Board Room 2nd floor Supreme Court 1:30 – 4:30 PM
- Session 3 – Thursday February 10, 2005 – Registration 1:00 PM
Conference Board Room 2nd floor Supreme Court 1:30 – 4:30 PM

FAMILY COURT TRAINING

- Session 1 – Wednesday February 2, 2005 – Registration 1:00 PM
Calendar Control Part 1st floor Supreme Court 1:30 – 4:30 PM

Session 2 – Wednesday February 9, 2005 – Registration 1:00 PM
Calendar Control Part 1st floor Supreme Court 1:30 – 4:30 PM
Session 3 – Monday February 14, 2005 – Registration 1:00 PM
Calendar Control Part 1st floor Supreme Court 1:30 – 4:30 PM

Please mark your calendars. This training will result in 9 CLE credits and is free to all 18B panelists.

BEING RELIEVED

I am experiencing an increasing number of vouchers that end not with a disposition but with a notation that the attorney has been relieved by another 18B attorney. Not only is such action costly from a financial standpoint, it is costly to the criminal justice system in that it gives undue power to criminal defendants as opposed to you. An indigent defendant is entitled to be represented by counsel. This does not mean counsel of defendant's choice or counsel with whom defendant has a splendid relationship. You should not seek to be relieved nor should you consent to be relieved merely because the defendant is not delighted with you. Relief should only occur in that small number of cases where, for whatever reason, the attorney – client relationship has so deteriorated that you can no longer provide effective representation. Since many defendants like the library, you should invite them to read Judge Smith's dissent in the October 19, 2004 Court of Appeals case of People v. Henriquez, where the respective power belonging to a defendant and to a defense attorney are spelled out with great clarity (e.g. "A criminal defendant who is represented by counsel relegates control of much of the case to the lawyer except as to certain fundamental decisions reserved to the client" p 12)

DEFENDANTS' QUESTIONNAIRES

One of our panelists recently advised me that his client presented him with a list of 12 items that he, the defendant, was seeking from the attorney. These included the accusatory instrument, police reports, witness statements, lab reports and other items. I don't know if this is an isolated case or if such demands are prevalent. If you have represented defendants who are basically seeking discovery from you, please let me know, let me know if it's a problem and let me know how you are handling it. Thank you.

CO-COUNSEL PANEL

The following attorney has just joined our appellate panel. He is quite knowledgeable in the law but seeks trial experience. Please keep him in mind as a second chair if you have anything coming up.

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As 2004 comes to a close, I wish you all a Happy and Healthy Holiday Season and Best Wishes for you for the New Year. Thank you all for your continuing contribution to the 18B Program.

Very truly yours,

Patrick L. McCloskey