

February 4, 2003

Dear Panelist,

### **PROPOSED INCREASE IN 18B RATES**

#### The Good News

At long last, the Governor has included in his 2003 Executive Budget a proposal to increase 18B rates. Misdemeanor cases would rise to \$60 per hour for in-court and out-of-court representation. Felony cases, family court cases and appeals would rise to \$75 per hour for in-court and out-of-court representation. Caps for misdemeanor vouchers would rise to \$1600. Caps for felony, family court and appellate vouchers would rise to \$4,000. Expert caps would rise to \$1000. All such caps could be exceeded in extraordinary circumstance cases.

#### The Bad News

The increases don't take effect until January 1, 2004 and only apply to representation on cases on or after January 1, 2004. The proposal still has to be passed by the state legislature. There are some problems in the language of the proposal that need to be worked out. Part of the cost will have to be borne by local municipalities, which could cause local resistance.

#### The Bottom Line

For the first time in memory, there is light at the end of the tunnel. This proposal was made not by the Assembly, but by the Governor. That in my opinion is of huge significance. I am including a memorandum from the New York State Defenders Association that sets forth more particulars regarding this proposal. I am greatly encouraged by this and hope you will be as well. You have long deserved these increases.

## **SAMPLE EXTRAORDINARY CIRCUMSTANCES FEE APPLICATION**

I am enclosing a copy of a "Sample Extraordinary Circumstances Fee Application" for use in cases where you seek hourly compensation in excess of the statutory rates. We have recently had a small number of felony cases approved at the rate of \$75 per hour in County Court and about a dozen or so in Family Court. Obviously, judges will not and should not approve such fees on all cases, but the Governor's proposed rate increase may influence the judges to some extent. If you have a case that you feel is fitting for enhanced rates, feel free to use the enclosed application as a model. You can thank the New York State Association of Criminal Defense Lawyers and, more particularly, their newly elected President, Dick Barbuto, for supplying us with these papers.

### **DEMAND FOR SUPPORTING DEPOSITION**

For the members of the District Court Panel, I am enclosing a "Demand for Supporting Deposition". This should be used by you whenever you appear as Assigned Counsel in Arraignment "B".

### **ADDITIONS TO CO-COUNSEL PANEL**

Matt Barnes  
10 Verbena Avenue  
Floral Park, N.Y. 11001  
516-437-8000  
FAX 516-437-0992

Note: Matt is almost qualified for the District Court Panel. If you have a trial coming up, please consider letting him second seat you.

### **ADDITIONS TO EXPERTS PANEL**

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### **HAPPY NEW YEAR**

Please accept my thanks for your past service and my best wishes for a Happy New Year. May it be your best ever.

Sincerely,

Patrick L. McCloskey

**PERSONAL AND UNOFFICIAL**

AN ATTORNEY FRIEND OF MINE, WHO HAS PRACTICED PRIVATELY, IN-HOUSE AND WITH THE GOVERNMENT, RECENTLY RELOCATED FROM HAWAII AND IS SEEKING EMPLOYMENT (c \$85,000). HE HAS 17 YEARS EXPERIENCE. HIS PRACTICE HAS RANGED FROM MARITIME AND CORPORATE TO REAL ESTATE AND LITIGATION. IF YOU KNOW OF ANY POSSIBLE OPPORTUNITIES, PLEASE LET ME KNOW. THANKS.

Pat McCloskey