

September 8, 2003

Dear Panelist,

This letter includes the following topics:

- New Second Department Rule on 18B Counsel Accepting Private Cases
- Dispositions in Arraignment B
- Annual Criminal Law & Procedure Update / Criminal Courts Bar Association and We Care Food Drive
- Criminal Courts Bar Association Reduced Membership Fee
- New Experts' List
- 18B Website

#### NEW SECOND DEPARTMENT RULE

The New York Law Journal published an August 28<sup>th</sup> article on an 18B Rule change that could impact our current procedure in the Arraignment B and 511 Vacate Parts. The article from the Law Journal is enclosed. I wrote to Presiding Justice Prudenti to seek clarification and will keep you advised of all developments.

#### DISPOSITIONS IN ARRAIGNMENT B

It is permissible for you to take appropriate dispositions in Arraignment B. On the other hand, a number of panelists have told me that they are uncomfortable taking any

plea in Arraignment B because they do not have a full familiarity with the defendant or with the facts of the case. It is therefore also permissible for you to refrain from taking dispositions in Arraignment B.

In that regard, even if an ACOD is offered, you should understand that while such a plea may have superficial appeal to a defendant, there can be adverse ramifications to the client regarding possible civil litigation, licensing applications, future employment (with, eg, the police or fire department) and/or immigration matters. At the very least, these consequences should be discussed with any defendant before such a disposition is contemplated. Ultimately, the decision as to whether you wish to be involved in such a disposition is yours to make.

### ANNUAL CRIMINAL LAW UPDATE CRIMINAL COURTS BAR ASSOCIATION AND WE CARE FOOD DRIVE

Our annual Criminal Law and Procedure Update will be held in the Supreme Court building on Friday September 19<sup>th</sup> from 1:30 P.M. to 4:30 P.M. This program is free to all 18B Panelists in good standing. I hope you will attend.

This year, the Nassau County Criminal Courts Bar Association, in conjunction with We Care, the charitable arm of the Nassau County Bar Association, is sponsoring a food drive to benefit the needy. **ALL PERSONS ATTENDING THE ANNUAL CRIMINAL LAW UPDATE ARE ASKED TO BRING WITH THEM ONE NON-PERISHABLE FOOT ITEM (eg CANNED GOODS) OR ONE BABY ITEM (eg DIAPERS, FORMULA).** If you plan to attend this program, please make every effort to help out. Thank you.

### CRIMINAL COURTS BAR ASSOCIATION REDUCED MEMBERSHIP FEE

Membership in the Nassau County Criminal Courts Bar Association is beneficial to those who practice criminal law in Nassau County. Accordingly, I have asked the Executive Committee of the Criminal Courts Bar Association to permit all 18B Panelists to join the Association for 50% of the normal application fee of \$100. They have agreed to honor this request for all membership applications received from 18B attorneys on or before November 30<sup>th</sup>. Membership applications can be obtained by Emailing Dede Unger at [nccba@aol.com](mailto:nccba@aol.com).

The Association has a dinner meeting once each month and presents speakers who address topical criminal issues. The speaker at the next meeting (see attached flyer) is Donna Newman, lead counsel in the “enemy combatant” case of United States v. Jose Padilla. If you wish to attend this meeting, you may obtain a membership application at that time.

## NEW EXPERTS' LIST

The Panel of Experts lists distributed in the past included the names of persons who have since moved, retired or passed away. Consequently, I undertook a revision of the list to include only those experts who are presently available and willing to serve. The list is shorter but more accurate. A copy is enclosed. Please keep it in a safe place, but not so safe that you'll never be able to find it. One casualty as a result of the update: Accident Reconstruction Specialists. We have no one currently willing to serve. If you know any viable candidates, please let me know.

## 18B WEBSITE

I have been planning an 18B website for some time and it is getting closer to fruition. I envision a site that will not only answer questions you may have regarding 18B policies but also questions you may have about criminal law and procedure. Stay tuned, and thank you for your continued work on the panel.

Sincerely,

Patrick L. McCloskey