

August 13, 2004

Re: Rules in Arraignment B and 511 Vacate Parts

Dear District Court Panelist:

It recently came to my attention that one of our 18B Panelists expressed confusion as to what was proper and improper conduct in the Arraignment B courtroom. I am therefore setting forth, in page, chapter and verse, what is and is not permissible. The rules that follow, while couched in terms of Arraignment B, **are equally applicable to the 511 Vacate Part** and are to be strictly followed. Disregard of these rules will result in dismissal from the panel.

- As a rule, the 18B attorney of the day in Arraignment B is there to represent, for that day only, every defendant who appears without an attorney. (From time to time, you may be assigned a case in Arraignment B, but it is the rare exception and not the rule.) Usually, representing such defendants “for that day only” means for arraignment purposes only. Where an appropriate disposition can be taken on a given case, however, it should be taken as part of your attorney-of-the-day duties. Under no circumstances may you accept a fee for taking a disposition on a case in Arraignment B.
- Since you deal with non indigent defendants in Arraignment B, and since their cases are usually not disposed of in Arraignment B, it is permissible for such defendants to retain you for any **future** court dates, as long as it is **their** idea to do so. With that in mind, you may **not** use your 18B status in an effort to solicit them to retain you. This means that you should advise non indigent defendants that it is their responsibility to get a lawyer before they return to court on the adjourned date.

- Since there is an attorney client relationship in Arraignment B, you may give your business card to such defendants and you are encouraged to use the approved information sheets and questionnaires for Arraignment B and to transcribe such information sheets and questionnaires onto your letterhead and give them to the defendants. If you do not have these sheets, call the office and we will send them to you.*
- You may not tout your own ability to handle a particular defendant's case or any case in an effort to have such defendant retain you privately.
- You may not tell any defendant to call you before the next court date in an effort to have such defendant retain you privately.
- You may not tell any defendant that you will represent them if they can't find another attorney in an effort to have such defendant retain you privately.
- You may not quote a fee to any defendant while you are acting as attorney-of-the-day in an effort to have such defendant retain you privately.
- You may not, under any circumstances, accept any money from any defendant while you are acting as attorney-of-the-day.
- You may not handle any retained case while you are serving as attorney-of-the-day. If you have a previously retained case scheduled for the same day as your Arraignment B date, have someone else cover the retained case or call this office and we will have someone else cover the Arraignment B assignment.
- If the defendant asks if you can represent them on their next court date, you may do so as long as it is **their** idea, but you are not to quote any fee or accept any money from such defendant while serving as attorney-of-the-day. Rather, if such defendant indicates that he/she is considering retaining you, you should instruct him/her to see you in your office or in the courthouse, **after** your 18B duties in Arraignment B and in the 511 vacate part are fully concluded. Stated another way, **no private retainer agreement should be discussed, begun or concluded while you are serving as attorney-of-the-day.**
- After a defendant has been arraigned and given an adjourned date, unless that defendant has indicated that he/she has decided to use your services, you are not permitted to initiate further contact with such defendant by telephone or by mailings of any kind.

* There are also information sheets and questionnaires available for the 511 vacate part.

- Similarly, if a defendant says he/she will call you to have you represent them and if they do not thereafter call you, you may not call them to check on them or for any other reason.

Please remember that your purpose in serving as attorney-of-the-day in Arraignment B and in the 511 Vacate part is to assist needful defendants and to assist the Court in the expeditious movement of the cases. These assignments are not designed as a means to expand your private client base. Personally, I have no problem with your being retained by such defendants as long as it is **their** idea and not the result of your soliciting them.

To those 18B Panelists who disregard the foregoing rules, I tell you it is the surest way to be removed from the panel. To those 18B Panelists who have always abided by these rules, I thank you for your continued loyal service.

Very truly yours,

Patrick L. McCloskey