

May 11, 2009

Dear Panelist:

This letter covers the following topics:

- Jail Visits
- Sentences in Part 9 and 9L
- Upcoming CLE Programs
- Experts for Family Court Practitioners
- Drug Law Reform Sentencing Chart
- New Drug Law Report
- YO Sentencing
- Additions to Experts' Panel

### **JAIL VISITS**

Friday morning visits at the Nassau County jail have been re-opened for attorneys. Inmates can be signed up for counsel visits from 8 to 10AM, with visits lasting until 11 AM. If you have any questions, the phone number for jail visiting is 516.572.4600.

### **SENTENCING IN PARTS 9 and 9L**

Judges William C. Donnino and Christopher Quinn recently released the following statement regarding sentences in Parts 9 and 9L. Please be aware of it.

#### **Rule Applicable To Sentences In Part 9 and 9L**

Administrative rules governing the assignment of cases should allow for a judge who makes a sentence commitment at the time a defendant pleads guilty to be available at the time of sentence if necessary to fulfill the sentence commitment.

A number of judges are assigned to Part 9 and 9L on a rotating basis. As a result, a judge who accepts a plea of guilty with a sentence commitment may not be present when the defendant appears for sentence. The interests of judicial economy would recommend that the presiding judge impose the promised sentence of the other judge, rather than adjourn the case to the part of the other judge. There may, however, be cases in which the presiding judge finds it necessary to adjourn the case to the judge who made the commitment.

Accordingly, when a defendant appears before a presiding judge in Part 9 or 9L for sentence after having pled guilty and been given a sentence commitment by another judge of the court, the presiding judge may adjourn the case to appear before the judge who made the commitment in whatever part that judge is sitting at the time, including a part in the District Court.

An adjournment need not be granted if the presiding judge is willing to impose the sentence promised by the other judge or proposes an alternate sentence which is acceptable to the defendant.

Dated: March 13, 2009

Hon. William C. Donnino  
Hon. Christopher Quinn

### **UPCOMING CLE PROGRAMS**

At its next meeting, this Thursday night at the Davenport Press Restaurant in Mineola, the Nassau County Criminal Courts Bar Association is having as its guest speaker Dr. Jennifer Dysart, an expert in the field of eyewitness identification. I have heard Professor Dysart speak and highly recommend her to all criminal practitioners. I am pleased to remind you that, at my insistant urging, Dr Dysart joined our 18B Panel of Experts just last year. Particulars as to this meeting are contained in the enclosed flyer. I hope to see you at the Davenport next Thursday evening.

A free training workshop on "Evaluating the Context of Women's Violence in Intimate Partner Relationships" will be held in Nassau Supreme Court, CCP Courtroom, 1<sup>st</sup> Floor, at 2:00 PM on Tuesday, June 2<sup>nd</sup>. Particulars as to this program are contained in the enclosed flyer

### **EXPERTS FOR FAMILY COURT PRACTITIONERS**

At a recent CLE program on How to Win Your Case In Family Court, I suggested that 18B Family Court Panelists consider using investigators in preparing their cases.

After the program I was asked whether 18B would pay for forensic psychologists to assist in such preparation. The answer is yes.

If you are confronted with the task of cross examining a court appointed or opposing expert, I believe it is entirely fitting for you to seek the aid of a similarly qualified professional in order to assist you in preparing for that cross examination, even if you never call that expert to testify.

Note, however, that before you can retain the services of such an expert, you must submit an Affirmation in support of your application and the Judge must sign your proposed Order. Sample affirmations and orders can be found on our website ([nassau18B.org](http://nassau18B.org)) and remember that, if the Judge signs your order, you must use one of the experts on our Experts List.

If you truly require such an expert and if you have trouble with the Judge signing your order, you may state that I am in favor of it. I will also be willing to speak to the Judge personally if you feel that is necessary.

### **DRUG LAW REFORM SENTENCING CHART.**

Enclosed is a 2009 Rockefeller Drug Law Reform Sentencing Chart. It is effective as of April 7, 2009.

### **NEW DRUG LAW REPORT**

Panelist David Levine has provided this office with a report from the New York State Defenders Association on "New York's New Drug Law". If you wish to have a copy, please complete the attached form and fax it to us at 873.8032.

### **Y. O. SENTENCING**

Panelist Darlene Goldberg recently got Judge O'Brien to give a defendant Y.O. on a felony sentence where the defendant had already taken a felony plea and was promised Y.O. The cases she relied on were the following:

- People v. Zepada 87AD 2d 747 (1982)
- People v. Mosley 88AD2d 520 (1982)
- People v. Cecil Z. 57 NY 2d 899 (1982)

### **ADDITIONS TO EXPERTS' PANEL**

The following experts have been added to our Experts Panel

**Ballistics**  
**Crime Scene Reconstruction (Shooting)**  
**Firearm Identification**

James N. Gannalo  
Stria Consulting Group  
P.O. Box 367  
Brooklyn, NY 11228  
718.236.7616  
Beeper 917.697.610  
Firearm Identification, Shooting Scene Reconstruction

**Fingerprint Identification**

Gerald F. Briffa  
264-84<sup>th</sup> Street  
Brooklyn, NY 11209  
1.718.745.5537

**Investigations**

Michael Becket  
Enforce investigative & Security Services, Inc.  
P.O. Box 10815  
Westbury N.Y. 11590  
516.353.2672

Melvin Boone  
1 Fulton Ave. #14  
Hempstead, N.Y. 11550  
516.984.6358

Robert M. Leake Sr.  
C/o Emerald Investigations  
P.O. Box 314  
Rockville Centre, NY 11571  
631.656.8453  
Cell 516.983.1492

Mark Martinez  
233 Glengariff Road  
Massapequa Park, NY 11762  
516.782.1674

Laurie Mizrahi  
71 St. Andrews Lane  
Glen Cove, NY 11542  
516.782.1674

**Substance Abuse / Psychology / Social Work**

Marvin J. Aronson, Ph.D.  
131 Mineola Boulevard Suite 101  
Mineola, NY 11501  
516.248.3980  
Fax 516.248.3892

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Thank you for your continued good work on the Panel.

Very truly yours,

Patrick L. McCloskey