

November 18, 2009

Dear Panelist,

This letter covers the following topics:

- Lost File
- Family Court C.L.E. Program
- New Electronic Deposits
- Recorded Telephone Calls at Nassau County Jail
- Parts 10, 11, 12 and DVM
- Felony Treatment Courts
- Witnesses in Grand Jury
- Additions to Experts' Panel

LOST FILE

The Nassau County Legal Aid Society represented a Mr. Quinton Ford. There came a time they were relieved and turned the file over to “an 18B attorney.” Panelist Bill Schafer was ultimately assigned to represent Mr. Ford, but he does not have the file because the 18B Panelist to whom Legal Aid gave the file is unknown.

If you are that 18B Panelist or if you know anything about the whereabouts of the file in the People v. Quinton Ford case, please call me immediately or call Bill Schafer at 516.395.0863 so that we can correct this misunderstanding. Thank you.

FAMILY COURT C.L.E. PROGRAM

The Annual fall Family Court CLE Program, entitled “Education Law and Juveniles in Family Court” will be held at Domus on Thursday, December 3, 2009 from 5:30 to 8:30 P.M. This program is geared to Family Court Panelists but is free to all 18B attorneys in good standing. If you wish to attend this program, please fill out the enclosed brochure and fax it back to the Nassau Academy of Law at 516.747.4147.

NEW ELECTRONIC DEPOSITS

Nassau County recently introduced a new form 700 (Taxpayer ID certification form) pursuant to which you can have your 18B checks electronically deposited into your bank account. If you wish to continue to receive paper checks from the County, you need do nothing. If you wish to begin to receive electronic deposits to your bank account, fill out Sections I and II on the enclosed form and send or fax it to the Nassau County Comptroller's office. The fax number is 516.571.2533.

RECORDED TELEPHONE CALLS AT NASSAU COUNTY JAIL

It has come to our attention that the recording system at the jail, in addition to recording defendants' telephone conversations with friends and family members, is also recording certain telephone conversations between defendants and their attorneys, in violation of the attorney-client privilege. These tapes are then being turned over to the District Attorney's office, where they are being used aggressively for investigative and or trial purposes.

Actions are being taken to stop this. In the interim, however, it is suggested that you do the following:

- Advise your clients to be careful not to create additional problems for themselves when speaking to anyone on a jail telephone.
- Make sure your address and telephone number(s) are on file with the jail so that the recording system does not function when the conversation involves one of your telephone numbers.
- Preface every telephone conversation you have with a jailed inmate with a statement to the effect that you are the defendant's attorney, that the following conversation is protected by the attorney-client privilege, and that it may not be recorded or monitored by anyone in any way.

PARTS 10, 11, 12 AND DVM

Effective immediately, anyone assigned to serve as attorney-of-the-day in Parts 10, 11 and 12 should also check in with the clerk in the Domestic Violence Misdemeanor courtroom in order to catch any conflicts that arise there. The DVM courtroom is right across the hall from Parts 10, 11 and 12.

FELONY TREATMENT COURTS

A document entitled “Nassau County Court Rule On Its Felony Treatment Courts” was recently released by Judge Donnino. A copy is enclosed.

WITNESSES IN GRAND JURY

In my last letter, I indicated that one of our attorneys had a client who testified in the Grand Jury and asked the grand jurors to call certain alibi witnesses. The Grand Jury refused to do so and, because one of the Grand Jurors indicated on the record that they refused because of time and monetary constraints, the indictment was dismissed after inspection of the minutes by the court.

Panelist Joe LoPiccolo now suggests that, in order to be sure the record is clear, in cases where you intend to put your client into the grand jury and have him/her request to have certain witnesses called, you should also put such request in writing to the ADA handling the case and have that request stamped in at the DA’s office. Joe feels that then the ADA presenting the case should be obligated to put the request to the Grand Jury on the record and ask for a vote on the issue at that time.

ADDITIONS TO EXPERTS’ PANEL

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My thanks for your continued good work on the Panel. Happy Thanksgiving to you and your family.

Very truly yours,

Patrick L. McCloskey