

ACDP NEWS

THE MONTHLY NEWSLETTER OF THE NASSAU COUNTY BAR ASSOCIATION ASSIGNED COUNSEL DEFENDER PLAN[©]



PAPER VOUCHERS TO BE DISCONTINUED

As you all know, when 18b transitioned to the CMS, the standing rule was that vouchers for any case to which you were assigned prior to January 1, 2024 did not have to be submitted via the CMS. The County was still accepting paper vouchers for any such cases.

We have received word that the County will no longer be accepting paper vouchers as of January 1, 2025. This means that any and all of your cases, regardless of when you were assigned to them, must be inputted into the CMS.

You will use the “Create New Assignment Case” function for all of these cases.

PLEASE BE SURE TO INPUT THE CORRECT ASSIGNMENT DATE WHEN PROMPTED.

Remember, if you are creating a new Criminal Assignment Case, there is only one question that requires an answer in the Arraignment section of the case: “Was the client represented at Arraignment?” The answer will always be, “Yes” for Nassau County Criminal Matters. Once you answer, “Yes,” you will see there are no other questions which you are required to answer in this section.

The next step will be to create timesheet entries for the earliest year of your assignment. Once you have created timesheet entries for that first year, you'll then create **AND SUBMIT** a voucher for those timesheet entries. That first voucher will be marked as an "Interim Voucher" which ensures that the CMS will not prompt you to enter a disposition or complete the Case Closing Form.

Once you have created **AND SUBMITTED** that first voucher, you will then create timesheet entries for the next year of your representation. Once you've completed creating those timesheet entries, you will create **AND SUBMIT** a voucher for that second year of service. If the case concluded in the second year, that second voucher would be submitted as a Final Voucher, but if the case was still open in subsequent years, the second voucher would also be an Interim Voucher.

Here's an example to clear up any confusion. Let's say you were assigned to a case in October of 2022 and the case is scheduled to be disposed of in January of 2025. You would create the case and then enter all of your time for October, November, and December of 2022. You would then create **AND SUBMIT** a voucher for those three months' worth of time entries. Once you have submitted the voucher for

the work performed in 2022 (as an Interim Voucher), you'd then create timesheet entries for all of the work you performed on the case in 2023. Once the 2023 timesheet entries were completely entered, you would create **AND SUBMIT** an Interim Voucher for your 2023 work. You would then do the same for your 2024 work.

Then, once the case wraps up in January of 2025, you'd enter your final timesheet entries and submit a Final Voucher following the case's disposition.

It's totally fine to create the different vouchers on different days. When you finish, you will see all the vouchers you created for a case in the "Timesheets/Vouchers" tab of the case.

The key, as you'll note from the emphasized portions of this article, is to be sure to submit each Interim Voucher. Once you click the "Submit" button for a voucher, the CMS will not add any further timesheet entries to that voucher. If you fail to click the "Submit" button, however, and just continue adding timesheet entries, whenever you go to create your next voucher, the CMS will grab those unsubmitted timesheet entries and add them to that next voucher.

Paper Vouchers Continued from Page 1

The CMS automatically detects the date and associates the correct rate based on your date of service; in other words, it will enter all of your pre-4/1/23 time at \$75 or \$60 per hour depending on the type of case.

If you have an enhanced rate order, please contact Lindsay in the 18b Office for instructions for how to proceed.

Appellate attorneys will still be able to submit paper vouchers until we notify you otherwise.

We would advise you to start entering your older cases and submitting those older vouchers now, to avoid the end-of-year crunch. Thanks, as always, for rolling with the punches and being so flexible!



The Power of Interdisciplinary Defense Practice

As many of you can attest, our ongoing CLE series, “The Power of Expertise,” has been an enormous success, imparting vital information about working with a vast array of experts and how doing so can improve case outcomes for your clients. On Tuesday, November 19th, we are lucky enough to have three staff members from the NYS Office of Indigent Legal Services coming to Domus to present a Dean’s Hour CLE on the power of interdisciplinary defense practice.

Interdisciplinary practice is the gold standard of effective criminal defense representation. In fact, the ABA’s Revised Ten Principles of a Public Defense Delivery System explicitly identify interdisciplinary practice as an essential component of fulfilling our constitutional and ethical obligations. This session will focus on the importance of an interdisciplinary approach to criminal defense practice throughout the life of a case. Through case examples and social science research, the presenters will illustrate how pre-trial mitigation and investigation produce better outcomes in trial court, on appeal, in CPL 440 litigation, and in DVSJA advocacy.

Presented by Kingston Farady, Special Assistant for Investigations, Statewide Appellate Support Center, NYS OILS, Elizabeth Isaacs, Supervising Appellate Attorney, Statewide Appellate Support Center, NYS OILS, and Ketienne Telemaque, Criminal Defense Representation Counsel – Region A, NYS OILS, this CLE will be an amazing opportunity to learn more about ways to enhance your defense practice, improve outcomes from your clients, and relieve some of the burden you face as a criminal defense practitioner.

In-person attendance is strongly recommended for this important program.

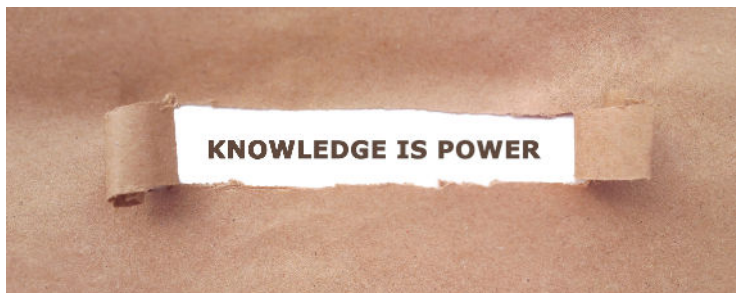
.5 credits in Professional Practice, .5 credits in Diversity, .5 credits in Ethics.

Tuesday, November 19, 2024, 12:30pm-2:00pm.

Also next week, we're so excited to have the NCBA President, and 18b panelist, Daniel Russo, partnering with Dr. Joseph Scroppo to present the next session in our Power of Expertise CLE Series: The Extreme Emotional Disturbance Defense, A Case Study.

We hope you'll join us on Thursday, November 21, 2024, 12:30pm-1:30 pm for this fascinating CLE.

And please keep an eye out for more information on the next session in our series: Experts in DVSJA Litigation, with Dr. BJ Cling and Karen Johnston, on December 3, 2024, 12:30pm-1:30pm.



CLE Requirements

Please remember that in order to remain in good standing on the 18b Panel, you must complete 6 CLE hours per calendar year in the field of law which you practice as an 18b attorney. Please remember to email us your certificates of completion so that we can update your file.

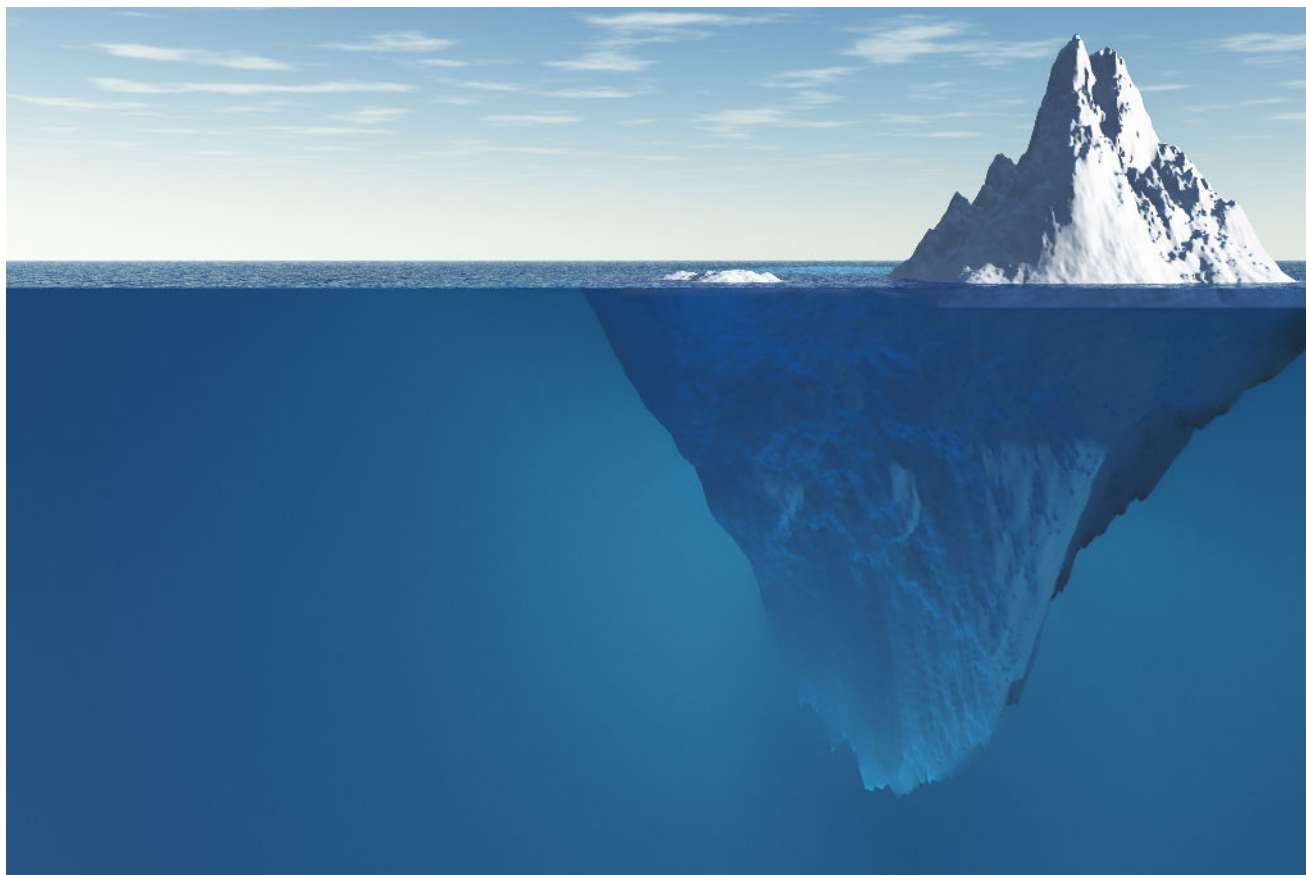
Voucher Housekeeping

When completing Attorney of the Day vouchers in the CMS, please don't select "District" as the court where you worked that particular day. Please be sure to select the court PART where you worked (FSP, 10/11/12, Arr. B, etc.).

Medical Records Review

Recently, an 18b Attorney was surprised to learn that an expert on the NCBA ACDP roster was not a licensed physician, despite having a medical degree. While this expert was listed as a medical record review expert, his value as a medical expert would be considerably diminished. Additionally, a licensed physician would have been required if the expert would be needed to give a medical opinion. So, be careful when retaining an expert that their qualifications match your initial needs, and your trial needs as well.

Another important difference is that a licensed physician is paid at the New York State guideline rate of \$400 per hour, but an expert hired for medical records review who is not a licensed physician will only be paid between \$100 and \$175 per hour.



ACDP NOW DIRECTLY FUNDS MITIGATION SPECIALISTS/EXPERTS!

We are thrilled to announce that, due to State funding, we are now able to pay directly for the services of all mitigation experts! This means you no longer have to obtain a court order to retain a mitigation expert, nor does that expert need to submit a voucher to the County to get paid. Rather, all you and your mitigation expert need to do, is follow the procedure below:

- You, as the assigned attorney, fill out the “Request for Mitigation Expert Services” form and email that to Lindsay at lindsay.boorman@nassau18b.org, **along with your Order of Assignment to the case**;
- We approve it and email it back to you for your records and you retain your expert;
- Your expert does the work you’re asking for, being sure to keep detailed time records, as per usual;
- At the end of the case, your expert completes the “Mitigation Expert Request For Payment” form, including having you sign the “Attorney Certification” at the bottom of that form;
- Your expert then emails the completed form back to Lindsay, along with the detailed time sheet records, and their CV (18b will have their CV already, but for ease of processing, please attach it once again so it can be part of one, unified case package).

If you have any questions, or to receive additional copies of the required forms, please email Lindsay at lindsay.boorman@nassau18b.org.



END OF YEAR BILLING REMINDER!

It's hard to believe that we are well into the final quarter of 2024! As we approach the end of the year, please don't forget that the County is requiring that all services which are provided in a calendar year, get billed in that calendar year.

This means that if you have cases which you complete at any time on or before 12/31/24, you must submit a voucher for those cases on or before 12/31/24. It also means if you have cases that will remain open in 2025, you must submit a voucher for all of your 2024 services before the end of the year. For cases which will remain open in the new year, the vouchers you submit will be "Interim Vouchers" and the CMS knows with Interim Vouchers, not to require a case closing form or disposition/sentence information.





Do You Know About the ILS Statewide Support Center?

Trial Lawyers, This is For You Too!

The ILS Statewide Appellate Support Center has been established to provide support, free of charge, to counsel providing mandated representation **at all stages of a case, trial, appellate, and post-conviction, including on 440.47 motions!**

Do you need assistance with a brief or motion?

They can offer templates, statements of law on many frequently encountered issues, and guidance on how to use these materials.

Do you need assistance with DVSJA advocacy under 440.47 or 60.12?

The Center can provide support! They are available for case consultations and can provide resources and templates for your DVSJA claims.

They can brainstorm with you and, where appropriate, explore your issues with the DVSJA Statewide Defender Task Force. The best way to reach out to the ILS Support Center is via their consultation intake form:

<https://nysils.questionpro.com/a/TakeSurvey?tt=QaQQCBMLG80EChrPeIW9eQ%3D%3D>

Or via their main email:
SASC@ils.ny.gov

Do you seek to advocate for a favorable disposition?

They can consult with you on how to use a social worker, case manager, or mitigation specialist; strategies for using these resources to connect clients to appropriate treatment services; and how these services can assist you in discovering and highlighting mitigating history. Please remember you still need to obtain a court order to employ these experts' services.

Is there a critical issue you wish to present and preserve for appellate review?

The Center can consult with you about how to do so effectively.

Contact them today to find out how they can help you!



Decisions of Note

People v Frank | November 6, 2024

Appellant appealed from a Kings County Supreme Court judgment convicting him after a jury trial of second-degree assault, two counts of third-degree CPW, and first-degree public lewdness. The Second Department affirmed the conviction but vacated adjudication as a second felony offender, reversed, and remitted for resentencing. The trial court violated Penal Law § 70.25(2) by sentencing appellant to consecutive sentences because the second-degree assault and CPW counts were not based on separate and distinct acts. Possessing pepper spray formed the basis of the CPW charge, but, as conceded by the prosecution, there was no designation of the alleged dangerous instrument used in the assault. Although unpreserved, the Second Department also exercised its interest-of-justice power to hold that appellant was improperly sentenced as a second felony offender, because his prior burglary conviction in New Jersey did not constitute a felony in New York for purposes of enhanced sentencing.

[People v Frank \(2024 NY Slip Op 05452\)](#)

Matter of Llanos v Barrezueta | November 6, 2024

The mother appealed from a Suffolk County Family Court order denying her modification petition seeking full custody of the child. The Second Department reversed and granted the mother's petition. The Family Court's determination that there had been no change in circumstances lacked a sound and substantial basis in the record. Rather, the parties' relationship had deteriorated to the point that joint custody was inappropriate: they only communicated via text and did not engage in joint decision-making. The mother also had more involvement with tending to the child's daily and emotional needs, and Family Court failed to give sufficient weight to the 12-year-old's strong preference to live with her mother.

[Matter of Llanos v Barrezueta \(2024 NY Slip Op 05446\)](#)



Contact Us



Do you have colleagues who are interested in joining an 18B panel? Do you have questions about filling out the vouchers? We're here for you! Email or call us with any questions or concerns.

Robert.Nigro@nassau18b.org

Lindsay.Boorman@nassau18b.org

Debbie.Ally@nassau18b.org

Judith.Kabashi@nassau18b.org

Roberta.Costanza@nassau18b.org

Chris.Sheppard@nassau18b.org

516-747-8448