

ACDP NEWS

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

WELCOME ADELLE HERRERA, OUR NEW BILINGUAL PARALEGAL!

Did you know that New Yorkers speak over 800 languages? About 30% of New Yorkers (that's 5.8 million people) speak a language other than English as their primary language at home. Of those 5.8 million people, around 2.5 million don't speak, write, or understand English very well (also called Limited English Proficiency or LEP). According to the most recent year for which statistics are available, approximately 10.3% of Nassau County's residents have LEP. And this number is growing. According to the UCS, in 2020, there were 2,034 Court Interpreter Assignments. In 2024, there were 8,668. As you have all seen in your practices, clients with LEP have difficulty accessing important government programs and services and can find it even more difficult to obtain just results in court proceedings.

Spanish eclipses all other languages as the primary language of individuals with LEP in NY State. In fact, 48% of individuals in NY State with LEP speak Spanish as their primary language. Coming in a very distant second place, 15% of New Yorkers with LEP speak Cantonese, Mandarin, or another language spoken in China.

As you can likely all attest, having a client with



LEP frequently poses seemingly insurmountable hurdles from the earliest moments of the case all the way through resolution. Meeting with a client prior to their arraignment in order to get information to make a bail application, or to find out if they really did have insurance in place at the time they were issued a summons is a required step for appropriate representation, but frequently, the logistics of having these conversations with a client with LEP make them literally impossible. OCA interpreters are stretched thin and frequently aren't able to translate for you outside of the small window of time you're on the record.

Welcome

continued from page 1

But that doesn't mean the need isn't there, there and growing.

In addition to having to figure out how to communicate with your growing percentage of clients with LEP, we know that we are asking more from you in terms of record keeping for purposes of maintaining accurate and current data in the case management system. Your responsibilities seem to be growing on all fronts.

It is our responsibility, as the administration of 18b, to make sure you have all the resources possible to enable you to provide effective, client centered, compassionate, and zealous representation for your clients. As the demands on your time and expertise increase, so too must our support for you.

And so, we are excited to announce that we have created a new position at the NCBA ACDP: Spanish/English Paralegal. We are thrilled to welcome Adelle Herrera who will be stepping into this new role on August 6, 2025! Adelle received her Paralegal Certificate with Honors from the Maurice A. Deane School of Law at Hofstra University. Adelle will be a full-time NCBA ACDP employee who will work primarily in the District Court. She is fluent in Spanish and English and will be able to help 18b Attorneys conference District Court cases prior to, and after, court appearances. She will also be able to help the Attorneys of the Day in Arraignment A and Parts 10/11/12 complete and submit their Case Information Forms. She will be available in

District Court until the last Attorney of the Day court part goes down for the day. After that, she will be available by appointment to meet with you and your clients in County Court to offer similar assistance. We've provided Adelle with an 18b cell phone number so that you can call and text her during business hours if you need her assistance with a matter, and of course, you can email her. Her business cards have already arrived at the office, but you can make a note now; Adelle's contact information appears at the top of the next page.

As this is a brand new position, we expect that the specific parameters of the job will grow and change, and that Adelle will make this job her own. Please know that we want to hear from you! If there is something you think we can improve on about the way we have structured the position, or some note you think might be helpful as we work to make Adelle part of the fabric of the 18b program, we want to know! Please email Lindsay with your comments at Lindsay.Boorman@nassau18b.org. And be sure to say, "Hello," to Adelle when you see her in District Court starting on August 6th!





ADELLE HERRERA
NCBA ACDP
SPANISH/ENGLISH PARALEGAL
516-780-2004
Adelle.Herrera@nassau18b.org



Don't wait to send in your CLE certificates!

Remember, in order to remain in good standing on the 18b panel, you must annually complete 6 CLE credits in the field of law which you practice for 18b and/or ethics. Your proof of completion must be submitted to our office no later than December 31st of each year. But just because that's the due date, doesn't mean that you can't, or shouldn't, send them to us sooner! Beat the rush! As soon as you complete your 6 CLEs, send those completion certificates our way and that's one more thing off your plate come

the end of the year. You can email your certificates of completion to Judy at Judith.Kabashi@nassau18b.org.

We also wanted to let you know about some exciting CLE opportunities at the NCBA that are coming up, including opportunities for getting your Cybersecurity CLE as well as your Diversity and Elimination of Bias CLE! Keep reading for more information about some upcoming programs of interest!

September 3rd (Hybrid); 12:30-1:30
Cybersecurity for Attorneys--Protect Your Clients, Protect Your Practice; 1 CLE Credit in Cybersecurity, Privacy & Data Protection-General

September 18th (In Person Only); 12:30-1:30
Recent Developments in Testimonial Hearsay Presented by Hon. Arthur M. Diamond (ret.); 1 CLE Credit in Professional Practice

September 25th (Hybrid); 12:30-1:30
Taking Hate to Court--Voices Against Anti-Asian Hate; 1 CLE Credit in Diversity, Inclusion, and Elimination of Bias

September 29th (Hybrid); 12:30-1:30
Crimmigration and Immigration Enforcement Updates Presented by LIRIAC Staff Attorneys Jackeline Saavedra-Arizaga and Michelle Caldera-Kopf; 1 CLE Credit in Professional Practice

September 30th (Hybrid); 3:00-5:00
CPL Section 440.10: Litigating Wrongful Convictions; 1.5 CLE Credits in Skills & .5 CLE Credit in Ethics & Professionalism

And don't forget to save the date for the perennial favorite, our annual Criminal Law and Procedure Update! November 18th (Hybrid), from 1:00-4:00; 2.5 CLE Credits in Professional Practice & .5 CLE Credit in Ethics & Professionalism!



DON'T FORGET ABOUT THE NCBA ACDP SECOND CHAIR PROGRAM!

The Nassau County Bar Association Assigned Counsel Defender Plan has launched a second chair program with two goals in mind: to give assigned counsel attorneys additional experience on trials with the expectation that the second chair will eventually be elevated to the next panel tier upon completion of the panel prerequisites and application, and to offer the assistance of additional counsel to experienced attorneys who have complex cases. This mutually beneficial pilot program also provides lead counsel with assistance with especially difficult felony cases. Just as importantly, it provides the client with an added team member to help with the case and optically “level the playing field” at trial. Second chairs are routinely used in public defender offices and institutional providers on trial cases, as well as in the District Attorney’s Office. The Office of Indigent

Legal Services’ Assigned Counsel Programs Black Letter Standards, released in July 2019, cites as necessary under Section 4.2.e the creation by the ACDP of a Second Chair Program to provide necessary trial experience to attorneys.

We are thrilled to be able to institute this program and fund the Second Chair attorneys directly via grant funding received from New York State. This means that for all attorneys who are sitting as Second Chair attorneys, you will be paid the statutory rate, but you will be paid directly by ACDP. The process for requesting a Second Chair, or to become a Second Chair, as well as how to bill for your services are spelled out in the pages below.

Please note the record requirements!

1) If a Second Chair is appointed via Order of Assignment on a trial and that Second Chair Attorney is on a lesser level panel as the Primary Attorney. i.e.: if a Major Felony attorney is the Primary Attorney in the matter and the Second Chair Attorney is a member of the Felony Panel, that the following protocol is met:

a. The client first must agree, in writing, to the addition of a Second Chair in his or her case. This agreement must be signed and dated by all parties on the defense side: Primary Attorney, Second Chair Attorney, and client. This agreement must fully explain that the Second Chair Attorney will be unable to discharge the duties of the Primary Attorney should something render the Primary Attorney unable to try the case. A copy of this agreement must be forwarded to the NCBA ACDP office by either attorney upon execution so it will be a part of both attorneys' file.

b. There must be a statement, on the record, by the trial judge that should the Primary Attorney be unable to proceed to or complete trial, that the Second Chair Attorney cannot take over the handling of the case as the Second Chair Attorney has not yet met the requirements to be placed on the same panel as the Primary Attorney.

c. The attorney assigned as the Second Chair Attorney will be placed onto the elevated panel for that case ONLY, for the purposes of billing reasonable and legitimate work done on the trial case. The Second Chair Attorney will be removed from the elevated panel list at the submission of the voucher.

2) Any member of the Nassau County 18B Criminal Panel who is a Primary Attorney on a case, may request the appointment of a Second Chair to assist them in handling a case. All such requests must be made to the NCBA ACDP Administrator or Deputy Administrator. If the Primary Attorney seeks the appointment of a specific attorney as a

Second Chair, upon receiving approval from the NCBA ACDP Administrator or Deputy Administrator, the Primary Attorney will proceed directly to their client to obtain their consent and signature on the Nassau County Bar Association Assigned Counsel Defender Plan Second Chair Pilot Program Agreement. The Primary Attorney will then proceed directly to the Court with their request that the Court appoint their selected Second Chair. If the Primary Attorney seeks the appointment of a Second Chair, but does not have a specific attorney in mind, all such requests will be made to the NCBA ACDP Administrator or Deputy Administrator. Upon receiving such a request, the NCBA ACDP Administrator or Deputy Administrator, working with the assistance of the other employees of NCBA ACDP, will work to find a suitable Second Chair Attorney for the matter. Upon receiving agreement from the Primary and Second Chair Attorneys that the appointment would be suitable to both, the Primary Attorney will proceed to their client to obtain their consent and signature on the Nassau County Bar Association Assigned Counsel Defender Plan Second Chair Pilot Program Agreement. This agreement must be signed and dated by all parties in the matter: Primary Attorney, Second Chair Attorney, and client. A copy of this agreement must be forwarded to the NCBA ACDP office by either attorney upon execution so it will be a part of both attorneys' file. The Primary Attorney will then proceed to the Court with their request that the Court appoint their selected Second Chair.

3) Any member of the Nassau County 18B Criminal Panel who seeks admission to an elevated panel may request to be appointed to a case as a Second Chair. All such requests must be made to the NCACDP Administrator or Deputy Administrator. Upon receiving such a request, the NCACDP Administrator or Deputy Administrator, working with the

SECOND CHAIR PROGRAM

continued from page 5

assistance of the other employees of NCACDP, will work to find a suitable opportunity for the prospective Second Chair Attorney. Upon determination that a suitable Second Chair opportunity has been found, including the consent and agreement of both the Primary and Second Chair Attorneys, the Primary Attorney will proceed to their client to obtain their consent and signature on the Nassau County Bar Association Assigned Counsel Defender Plan Second Chair Pilot Program Agreement. The Primary Attorney will then proceed to the Court with their request that the Court appoint their selected Second Chair.

4) As a pilot program, the NCACDP has the right to amend the above protocol as it sees fit at any time with the goal of providing enhanced quality representation to all assigned counsel clients.

5) In all cases, the Primary Attorney, Second Chair Attorney, and Client must sign the appropriate NCBA ACDP Second Chair Pilot Program Agreement and forward a fully executed copy of the Agreement to the NCBA ACDP Office.

Copies of the relevant Agreements appear on the pages below.



Nassau County Bar Association Assigned Counsel Defender Plan Second Chair Pilot Program Agreement When Second Chair is Being Elevated For Purposes of Instant Case

Please be advised of the following rules regarding the Second Chair Pilot Program for the Nassau County Bar Association Assigned Counsel Defender Plan. If in Agreement, all parties should sign and date the Agreement and forward it to the NCACDP office upon execution to Lindsay Boorman at Lindsay.boorman@nassau18b.org.

This Agreement permits attorney _____ to be a Second Chair attorney on the case of _____/Ind#_____. While attorney _____ is admitted to the New York State Bar, an attorney in Good Standing, and on the Assigned Counsel Panel in Nassau County, said attorney does not have the same level of requisite experience and qualifications as your Primary Attorney.

The assigned Second Chair Attorney shall be authorized to participate in any relevant activity required as part of the defense under the direct supervision of the Primary Attorney.

Should your Primary Attorney be unable to proceed to and complete your representation, including the trial of your matter, the Second Chair Attorney will not be permitted to take over the case as the Primary Attorney, and a new attorney will be assigned to the case with the requisite experience and qualifications to handle this matter. The Second Chair Attorney, however, will remain on the case in her/his existing role as Second Chair.

The Primary Attorney must ask the presiding trial judge to make a statement on the record at the beginning of the assignment that should the Primary Attorney be unable to proceed to or complete said representation, that the Second Chair Attorney will not be permitted to take over the case as the Primary Attorney.

Client (printed name)

Client (signature) Date

Primary Attorney (printed name)

Primary Attorney (signature) Date

Second Chair Attorney (printed name)

Second Chair Attorney (signature) Date

Nassau County Bar Association Assigned Counsel Defender Plan Second Chair Pilot Program Agreement When Second Chair is Already On Requisite Panel

Please be advised of the following rules regarding the Second Chair Pilot Program for the Nassau County Bar Association Assigned Counsel Defender Plan. If in Agreement, all parties should sign and date the Agreement and forward it to the NCACDP office upon execution to Lindsay Boorman at Lindsay.boorman@nassau18b.org.

This Agreement permits attorney _____ to be a Second Chair attorney on the case of _____/Ind#_____. While attorney _____ is admitted to the New York State Bar, an attorney in Good Standing, and on the Assigned Counsel Panel in Nassau County, said attorney is not your Primary Attorney.

The assigned Second Chair Attorney shall be authorized to participate in any relevant activity required as part of the defense under the direct supervision of the Primary Attorney.

Should your Primary Attorney be unable to proceed to and complete your representation, including the trial of your matter, the Second Chair Attorney may be permitted to take over the case as the Primary Attorney, however, that is within the sole discretion of the judge handling the case at the time any such issue might arise. Should the judge decide to appoint alternate Primary Counsel other than the Second Chair Attorney, the Second Chair Attorney, will remain on the case in her/his existing role as Second Chair.

The Primary Attorney must ask the presiding trial judge to make a statement on the record at the beginning of the assignment that should the Primary Attorney be unable to proceed to or complete said representation, that the Second Chair Attorney will only be permitted to take over the case as the Primary Attorney if the judge, in their sole discretion, authorizes such.

Client (printed name)

Client (signature), Date

Primary Attorney (printed name)

Primary Attorney (signature), Date

Second Chair Attorney (printed name)

Second Chair Attorney (signature), Date



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 some of 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 White | July 16, 2025

Appellant appealed from a Queens County Supreme Court judgment convicting him of two counts of second-degree murder and related charges following a jury verdict, and an order of that court denying his CPL § 440.10 motion without a hearing. The Second Department reversed and remitted for a new trial. The court violated appellant's constitutional right to a public trial by improperly excluding a spectator, appellant's friend, from the courtroom "for the rest of th[e] trial" for sleeping. The court failed to "sufficiently consider whether less drastic measures could have addressed the spectator's behavior, such as warning the spectator or requesting that the spectator alter his demeanor in the courtroom." The court's decision the next day to lift the exclusion was insufficient to remedy the error, as it was not communicated to the spectator, who had no reason to believe that he could return to the courtroom. The violation of the right to a public trial is not subject to harmless error analysis.

https://nycourts.gov/reporter/3dseries/2025/2025_04193.htm

Matter of Joseph D.L. | July 16, 2025

The child appealed from a Queens County Family Court order approving placement in a Qualified Residential Treatment Program (Q RTP). The Second Department reversed, addressing for the first time the factors a court must consider in approving a child's Q RTP placement under Family Court Act § 1055-c. The appellate court found that the record did not support Family Court finding that there was no alternative setting available that could meet the child's needs in a less restrictive environment. Family Court was required to consider the availability of foster family homes in making its determination. In this case, testimony failed to establish that those homes were not available. Rather, the child lived in a foster family home from 2019 until January 2024, during which time his needs consistently had been met, suggesting that a less restrictive option was potentially available.

https://nycourts.gov/reporter/3dseries/2025/2025_04178.htm



Contact Us



Do you have colleagues who are interested in joining an 18B panel? Do you have questions about the case management system?

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

Adelle.Herrera@nassau18b.org

Stefanie.Giangregorio@nassau18b.org

516-747-8448