

ACDP NEWS

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



The Hidden Cost of Advocacy

Assigned counsel work is some of the most meaningful work in the legal profession—but it can also be among the most demanding.

Every day, attorneys carry the weight of their clients' challenges, navigate high-stakes legal matters, manage heavy caseloads, and confront situations that can be emotionally taxing.

18b attorneys regularly stand beside people experiencing some of the most difficult moments of their lives. They hear stories of violence, abuse, addiction, poverty, family separation, incarceration,

and loss. They carry the responsibility of protecting their clients' rights while often working under significant time and resource constraints.

This important work can be rewarding—but it can also come at a cost. While lawyers are trained to advocate for others, many find it difficult to prioritize their own well-being.

The reality is that mental health challenges within the legal profession are common. Stress, burnout, anxiety, depression, and compassion fatigue can affect attorneys at every stage of their

Hidden Cost Continued from Page 1

careers. Seeking support is not a sign of weakness; it is a sign of professionalism, self-awareness, and commitment to long-term success.

Depression in the Legal Community: More Than Just Feeling Down

The pressures of practicing law are well known. Heavy caseloads, demanding deadlines, emotionally difficult subject matter, financial stress, adversarial environments, and the weight of responsibility can all contribute to chronic stress. For assigned counsel, those pressures are often compounded by exposure to trauma, overwhelming workloads, and the emotional burden of representing individuals facing life-altering consequences. Unfortunately, many attorneys suffer in silence.

The culture of the legal profession has long valued toughness, self-reliance, and perseverance. While those qualities can be strengths, they can also make it difficult for attorneys to acknowledge when they are struggling. Concerns about stigma, professional reputation, or appearing vulnerable may prevent lawyers from seeking help when they need it most.

Depression is more than occasional sadness or a difficult week. It can affect concentration, decision-making, energy levels, motivation, and relationships. Some attorneys may experience persistent feelings of hopelessness, exhaustion, isolation, or loss of interest in activities they once enjoyed. Others may continue to perform at a high level professionally while quietly battling significant emotional distress.

Lawyers experience substance abuse and mental health problems at significantly higher rates than the general population and other professionals. Perhaps most concerning is the

reality that suicidal thoughts can affect anyone, regardless of experience, accomplishments, or professional standing. Mental health challenges do not discriminate, and no amount of professional success provides immunity from depression or emotional pain.

The good news is that help is available, treatment works, and recovery is possible.

Burnout: More Than Being Tired

Burnout is not simply the result of a busy week or a difficult case. It is a state of physical, emotional, and mental exhaustion caused by prolonged stress. Attorneys experiencing burnout may find themselves feeling depleted, cynical, detached from their work, or unable to find satisfaction in accomplishments that once felt meaningful.

Common signs of burnout include:

- Chronic exhaustion
- Difficulty concentrating
- Irritability or frustration
- Decreased motivation
- Feeling overwhelmed by routine tasks
- Increased absenteeism or withdrawal from colleagues

Left unaddressed, burnout can affect both professional performance and personal well-being.

Secondary Trauma: Carrying Clients' Experiences

Assigned counsel routinely hear accounts of traumatic events. Over time, exposure to those stories can have a cumulative effect.

Secondary traumatic stress occurs when professionals absorb the emotional impact of the trauma experienced by others. Attorneys may find themselves replaying details from difficult cases, experiencing heightened anxiety, struggling to sleep, or becoming more emotionally reactive than usual.

While lawyers are not therapists, they are often among the first people to hear a client's most painful experiences. The emotional toll of that responsibility is real.

Compassion Fatigue: When Caring Becomes Difficult

Compassion fatigue is sometimes described as the "cost of caring." It can develop when professionals spend extended periods providing support and advocacy without adequate opportunities to recover and recharge.

Attorneys experiencing compassion fatigue may notice that they feel emotionally numb, disconnected from clients, or less empathetic than they once were. They may begin to question their effectiveness or feel guilty about their inability to maintain the same level of emotional engagement.

Importantly, compassion fatigue does not mean a lawyer has stopped caring. More often, it is a signal that their emotional reserves have been depleted.

We've Identified The Issue, What Do We Do About It?

One of the most important steps the legal profession can take is to foster a culture where seeking support is viewed as a sign of strength rather than weakness. Attorneys should feel empowered to reach out to colleagues, trusted friends, family members, mental health professionals, or lawyer assistance programs when they are struggling.

The Nassau County Bar Association's Lawyer Assistance Program is available to provide free, confidential support to attorneys facing personal or professional challenges. LAP provides a range of services to all members of the legal profession, and their immediate family members who are struggling with alcohol or drug abuse, depression, anxiety, stress, as well as other addictions and mental health issues.

Services include:

- Consultation/Evaluation/Assessment
- Supportive Counseling
- Peer Support
- Group Support
- Annual 12-Step Retreat for Lawyers
- Stress Management
- Wellness Workshops
- Intervention and Motivational Support
- Treatment Referrals
- Law Practice Closings

LAP runs 2 weekly virtual Support Groups: Counselors Connect, every Tuesday from 1-1:45 and an ADHD Support Group every Thursday from 12:30-1:30. Counselors Connect focuses on a different topic every week such as work/life balance, anxiety, time management, procrastination, making lasting change. The ADHD Support Group provides a space to share struggles, successes, and ask questions about how ADHD and its symptoms can impact your professional and personal life. Neither group requires registration.

LAP services are free and strictly confidential via Section 499 of the Judiciary Law and the Rule of Professional Conduct. LAP is completely independent of the grievance committees of the Appellate Division and NCBA.

As legal professionals, we dedicate ourselves to helping others navigate difficult circumstances. We must also remember to extend that same care and compassion to ourselves and our colleagues. If you notice a fellow attorney who seems withdrawn, overwhelmed, or in distress, consider reaching out. And if you are struggling yourself, know that support is available and that seeking help is one of the strongest professional decisions you can make.

Contact LAP today for help. 24-Hour Confidential Helpline for Lawyers in Need (516) 512-2618 or (888) 408-6222 or email: eeckhardt@nassaubar.org or gpirozzi@nassaubar.org.



Medical Records: the Price of Proof

Have you ever represented a Petitioner in a custody matter where your client was alleging physical abuse of a child in common? Or maybe you've represented a Defendant in a murder case where your defense was Extreme Emotional Disturbance or Not Guilty by Reason of Mental Disease or Defect? Perhaps you have a client who is a defendant in a DV case, and you need to have an expert put together a Mitigation Package.

In order to properly represent your client in any of these circumstances, and hundreds of others, you need to get medical records, either your client's or someone else's or both. This proof can be essential to your case, whether you're seeking affirmative relief, like sole custody, or if you're asserting an affirmative defense, such as EED.

But did you know that you are very likely being overcharged by 750% when you request medical records by submitting an executed HIPAA form?

In just the past week, the 18b Office has fielded calls from two attorneys seeking confirmation that the County would cover the over \$2,000 invoices they'd received for medical records they had requested.

Under the NY Public Health Law ("PHL"), upon written request, healthcare providers must provide copies of certain medical records to "qualified persons" as that term is defined therein. Those providers, "may impose a reasonable charge for all inspections and copies, not

exceeding the costs incurred by such provider. . .However, the reasonable charge for paper copies shall not exceed seventy-five cents per page." PHL Section 18(2)(e). As you'd likely expect, healthcare providers almost always charge the maximum amount allowable under the law: \$.75 per page of paper copies.

When you're seeking records for a person with a lengthy medical or psychiatric history, the cost can run into the thousands of dollars. While the County will reimburse you for the cost of a necessary expenditure upon proof of payment, in a time when the cost of attorney and expert vouchers has more than doubled due to rate increases, if we are able to bring down costs without sacrificing the quality of representation, it is incumbent upon us to do so. As luck would have it, this is one such circumstance.

While the PHL allows healthcare providers to charge \$.75 per page **for records produced pursuant to a request**, in cases where records are produced pursuant to a subpoena, CPLR Section 8001 is the governing statute. Pursuant to CPLR Section 8001(c), "Wherever the preparation of a transcript of records is required in order to comply with a subpoena, the person subpoenaed shall receive an additional fee of ten cents per folio upon demand."

The next time you need to obtain medical records, keep this in mind and rather than preparing a HIPAA request, think about preparing a subpoena instead. It could literally save thousands of dollars!





Protecting Clients by Respecting the Limits of Representation

You've all been there: you're standing in Arraignment B, you've just arraigned a client and asked for them to be screened for eligibility for assignment of counsel. The judge finds them eligible and as soon as the judge utters the words, "Legal Aid assigned," the ADA asks you if you are consenting to the adjournment.

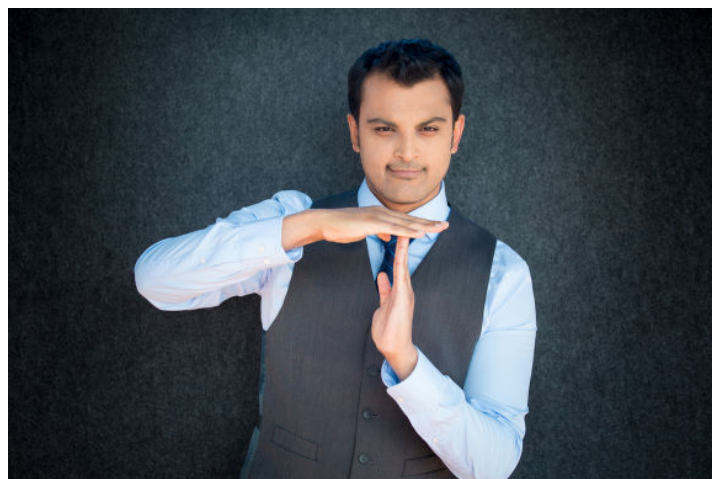
Here's the rub, you don't represent that client anymore! Because of that one simple fact, the answer to this question should always be, "I cannot consent to anything as this client is represented by other counsel."

Your role as that client's attorney ends the moment the judge appoints the Legal Aid Society, or any other attorney or firm for that matter. Once the judge makes that assignment, the proverbial file has been handed over and the Rules of Professional Conduct prohibit you from making any decisions regarding that client's case, whether it's a decision to consent to the issuance of an Order of Protection, or to consent to an adjournment, or any other decision. Once the Legal Aid Society, or any other attorney or firm, is assigned, you are relieved.

The decision about whether to consent to an adjournment or an Order of Protection are decisions that will have implications for a client for the duration of a case and potentially beyond. They are strategic decision that are only properly made by the attorney who has been tasked with representing a client through trial.

Once the Legal Aid Society has been assigned to represent a client, the client can leave Arraignment B and can speak with someone that day just outside of the Part. If need be, cases can be second called. Please remember, if you make representations or decisions about a case for a client you do not represent, you potentially open yourself up to liability.

While it's certainly not true in every instance, in this circumstance, the easiest answer is the right one! The next time you are in Arraignments, remember that you're doing more to protect the clients by remembering and respecting the limits of your representation.





IN-COURT

PROCEDURES AND POLICIES

There have been some occasions of late, when the 18b Attorney of the Day in Arraignment B has opted not to conference the days' cases with clients prior to their respective arraignments. **We want to take a moment to reiterate and emphasize the importance of the following ACDP Policies:**

- Attorneys of the Day in Arraignment B must be at District Court no later than 9:15 AM;
- Attorneys of the Day in Arraignment B must conference cases with the clients prior to arraignment;
- Attorneys of the Day must not schedule appearances in other court parts on days when you are the Attorney of the Day.

Every morning, no later than 9:15 AM, the Attorney of the Day should make an announcement in the Arraignment B courtroom letting the audience know who you are, why you are there, and telling them that anyone and everyone who does not have a retained attorney should follow you out of the courtroom to the neighboring conference room, where they can line up to conference their case.

Adelle will translate the Attorney of the Day announcement into Spanish and will then assist with anything you might need, whether that's prepping clients who are waiting on the line by telling them what paperwork you might need or find helpful, or translating for Spanish speaking clients.

The Attorney of the Day must conference every case prior to arraignment and must not leave the part to handle cases elsewhere in the building. If there is a circumstance where the Attorney of the Day is meeting a client for the first time at the podium standing before the arraigning judge, as frequently happens when clients arrive to court late, you should request a second call to provide you with an opportunity to conference the case.

We also want to emphasize that while Adelle's translation services are a vital part of what she does for 18b, they are just that, only a **part** of what she does. Adelle assists clients in preparing for their conferences with both the Attorneys of the Day, as well as the Court, she expedites the conference and arraignment process and is frequently a kind and friendly ear for people who are oftentimes unnerved and afraid. In addition, Adelle assists with LIRIAC referrals and any number of paralegal responsibilities, including communicating with clients and their families about logistics such as payment procedures. This is a reminder that Adelle is an incredibly important part of the 18b staff and whether or not you need to avail yourself of her translation skills, we expect that her role and position will be appreciated and that she will be treated with the respect she deserves. We thank you for your anticipated cooperation.



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. Contact Elizabeth Isaacs at 518-881-6451 or Elizabeth.Isaacs@ils.ny.gov to explore the resources available to you!

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.

Want to be mooted for your next appellate argument?

Send them the briefs, and they will put together a panel for a virtual moot court session.

Contact them today at SASC@ils.ny.gov to find out how they can help you!



Decisions of Note

Pitchford v Cain | May 28, 2026 (608 US--(2026))

**BATSON | FAILURE TO CONDUCT STEP 3 |
PRESERVATION | REVERSED | DISSENT**

Petitioner Terry Pitchford filed a petition for a writ of certiorari to the Supreme Court (SCOTUS) after the U.S. Court of Appeals for the Fifth Circuit reversed the District Court's decision granting Pitchford habeas relief. SCOTUS reversed the Fifth Circuit and remanded for further proceedings, holding that a Mississippi trial court had failed to conduct step 3 of the Batson test. "After a prosecutor asserts race-neutral reasons for a peremptory strike, the defense counsel must at least have an opportunity to argue that the asserted race neutral reasons were not the actual reasons—that is, that they were pretextual." At Pitchford's murder trial, the prosecutor used peremptory challenges to excuse four of the five black potential jurors. Defense counsel raised a Batson objection and the court conducted step two of the Batson inquiry by asking the prosecutor for race-neutral reasons for striking each of the four potential jurors. The trial court declared each of the prosecutor's proffered reasons race-neutral and then ended the Batson analysis. The court erroneously omitted Batson's third step and did not afford defense counsel an opportunity to rebut the prosecution's reasons as pretextual or make any findings on pretext. When defense counsel attempted to raise the Batson issue again at the

close of jury selection, the court cut off counsel twice, stating "I think you already made those, and they are clear in the record." On direct appeal, the Mississippi Supreme Court concluded that Pitchford had waived his Batson objection by failing to argue pretext to the trial court, a ruling ultimately endorsed by the Fifth Circuit. SCOTUS reversed and held that the Mississippi Supreme Court "unreasonably applied the clearly established Batson precedents and unreasonably determined that Pitchford had waived his opportunity to rebut the prosecutor's proffered race-neutral reasons at [step three]." While the Antiterrorism and Effective Death Penalty Act (AEDPA) standard for reviewing claims on federal habeas is deferential to the state court, "deference does not mean abdication." Here, the trial court's comments "explicitly assured [defense] counsel that the Batson objection was preserved," and Mississippi's argument that counsel preserved the Batson objection but waived the pretext argument "slices Batson way too thin." The dissent (Gorsuch, J., joined by Thomas, Alito, and Barrett, JJ.) would have found that the Mississippi Supreme Court's decision was reasonable under the AEDPA because Pitchford's counsel never made a comparative juror argument during jury selection, and one of the trial attorneys even represented that she had failed to preserve the pretext argument.

https://www.supremecourt.gov/opinions/25pdf/24-7351_jiel.pdf

Decisions Continued

Matter of Julien v Arthur | May 27, 2026

frivolous conduct by pro se appellant | ai generated brief with fictitious cases | sanctions ordered & affirmed

Father, acting pro se, appealed from a Kings County Family Court order granting mother sole legal and residential custody of the child and awarding him certain parental access, and submitted a GenAI-created appellate brief citing “nonexistent” case law. The Second Department held the mother’s motion for sanctions in abeyance to be determined along with the appeal and ultimately affirmed the order and imposed sanctions upon the father. Addressing an issue of first impression before the Second Department, the Court held that pursuant to 22 NYCRR 130-1.1 “the unverified usage of GenAI to draft an appellate brief containing false information constitutes frivolous conduct warranting the imposition of a sanction, even when the offending party is a pro se litigant.” The court emphasized that “a party’s pro se status ‘does not excuse [the party’s] failure to check the legal citations’ presented to the Court,” noting that “a baseline, common-sense standard” requires all litigants to refrain “from citing non-existent case law and quoting non-existent language.” Here, “the father’s reliance on GenAI, without taking the time to verify that the limited number of cases in his appellate brief stood for the propositions cited, let alone were actually in existence, constituted frivolous conduct.” Considering the circumstances, including “the father’s acknowledgment of responsibility for his conduct without further reoccurrence” and that his “conduct was not as egregious” when contrasted against cases with more excessive citations to fictitious cases, the court imposed sanctions of \$250 “not only to punish [the father] for [his] offending conduct, but also to deter future

frivolous conduct by other pro se litigants and attorneys.” The court expressly noted that “in reaching this determination, [it did not draw] any unfavorable inference against the father [for] his reliance on GenAI in drafting his appellate brief.”

https://www.nycourts.gov/reporter/current/3dseries/2026/2026_03308.shtml

NOTE: Effective June 1, 2026, the New York State Unified Court System has adopted a new rule – 22 NYCRR 161 – governing the use of artificial intelligence (AI) tools by counsel and parties in preparing court papers in both civil and criminal cases. The rule neither prohibits the use of AI technology in preparing papers submitted to the court, nor requires disclosure of such use. However, any attorney or party who relies upon AI technology in preparing papers to the court or served upon parties to the case “is required to carefully review the paper and independently ensure that it contains no fabricated or fictitious cases, statutes, or other material” and to certify their review by “signing such paper.” Failure to adhere to this requirement may subject the attorney or party “to sanction or other remedial action.”





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.

Lindsay.Boorman@nassau18b.org

Ingrid.Villagran@nassau18b.org

Debbie.Ally@nassau18b.org

Judith.Kabashi@nassau18b.org

Roberta.Costanza@nassau18b.org

Adelle.Herrera@nassau18b.org

Stefanie.Giangregorio@nassau18b.org

Jessica.Pascuzzi@nassau18b.org

516-747-8448