

ACDP NEWS

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



SO MUCH TO CELEBRATE!

As you all know, there has been a great deal going on with 18b these last few weeks. We have completed a full renovation of the 18b Office, which was 9 years in the making. We have funded memberships in the Nassau County Bar Association for our panelists. We have hired a new Grants Coordinator, who will be working to ensure speedy reimbursement for all of our Distribution related expenditures. And most momentously, we have, at long last, gone live with the new electronic Case Management System!

To say that it's been a time of great change would, we believe, be the

understatement of the decade!

While there have certainly been some growing pains as everyone learns the new system, for the most part, you have all adapted brilliantly. We already have over 500 cases added to the CMS, and we've sent over 100 vouchers to the County for payment; a process that would traditionally have taken 4 weeks, took 2 days.

As with all new things, we're all learning the intricacies of the program and making changes and adjustments where necessary. To that end, there are some

tips that we wanted to share with you which will hopefully ease your transition into the CMS.

- **When entering your description of services into a timesheet entry in the “Description” field, please DO NOT hit the Enter key to move to the next line.**

There’s no need to move to a new line and hitting the “Enter” key has caused issues in transmitting the vouchers electronically to the county.

- Remember that you have step-by-step How-To Guides for every functionality in the system; we’ve found that attorneys who have the guides handy as they create their first cases or timesheets have an easier time getting started.
- When you create a case in the system, be sure to click on “Create New Assignment Case” rather than “Create New Arraignment Case.” This is true even if you are the arraigining attorney as well as the assigned attorney. The system will not allow timesheet entries to be added to what it considers only an “Arraignment Case” because it knows that all of the time attributable to the arraignment is built into your Attorney of the Day voucher.
- If you find that you’re not able to make a change to a case and you need to (you forgot to add a charge but it’s not letting you, your assignment date is incorrect and it’s not letting you change it), please reach out to me, Debbie, or Roberta; we can make any and all adjustments on our end. This includes deleting cases and charges.



- If you’re not seeing a charge in the list of charges, please let me know. The list is fairly exhaustive, but since the system launched, we’ve learned of some VTL charges that are not in the system and should be. It takes all of 3 minutes for me to add a new charge, so please let me know. At the same time, if you are not finding a charge that should be there (Assault in the third degree), please try searching using both words and penal code section and 9 times out of 10, you’ll end up finding the charge.
- The system does not perform well in the Safari or Firefox browsers, so we suggest using Chrome or Edge instead.
- When you create a new Assignment Case within the system, please be sure to set the correct Assignment Date. The system will automatically enter the date you create the case as the assignment date, and that is usually incorrect. The issue with this, is that the system will not allow you to enter any time entries that pre-date your official assignment to the case. So if you do not affirmatively ensure that you’ve

entered the correct assignment date, if you attempt to create time entries from a date that is prior to when the system believes you were assigned, those entries will be disallowed. Please make sure your Assignment Date is correct in order to avoid any issues like this from arising.

- The only cases which you need to enter into the system are cases to which you were assigned between January 1, 2024 and August 22, 2024. All cases to which you were assigned beginning on August 23, 2024 and going forward, we will create in the system for you, but in order to do that, it is imperative that we receive information about all of your case assignments (see below).
- Please be sure to use and submit to our office the relevant information forms, assignment sheets, and marked calendars following your AOTD assignments. **We have revised the Arraignment A Information Form to include a space for you to indicate who the Assigned Attorney is, in the event you are not assigned to a particular case. Please be sure to fill in this space so we can assign the case in the CMS to the correct attorney!**



IMPORTANT REMINDERS!

Please remember that in order for you to be able to bill your time for a case, a case must exist in the CMS. To that end, please remember to follow all new procedures during and after your Attorney of the Day assignments, particularly the procedures related to emailing us the required Arraignment and Defendant Information Forms. We will then open a case for you in the CMS and you will be able to keep track of your time online. All forms from your Arraignment AOTD shifts get emailed to Roberta Costanza at Roberta.Costanza@nassau18b.org. All other assignment sheets should be emailed to Debbie at Debbie.Ally@nassau18b.org.

Please see the June Newsletter for a full explanation of all the new AOTD procedures. You will receive the relevant Information Form as part of your reminder email in advance of any AOTD assignment.



The Power of Expertise

The traditional model of criminal defense is that of a “Renaissance Attorney,” one person who is responsible for all facets of managing a criminal case: investigation, building positive client relationships, developing mitigation evidence, framing the legal theory, negotiating with the prosecution, persuading a judge or jury, and the list goes on. But what if it didn’t have to be that way? What if you weren’t asked to shoulder the entire weight of being responsible for your client’s liberty? What if you had more time to devote to drafting your opening statement, because you didn’t have to pound the pavement trying to gather surveillance videos? What if you could spend more drafting motions or developing cross-examination because you didn’t have to spend time trying to

find an open bed at a program for your client? What if you could walk into trial with a string of experts on your witness list, all of whom could speak to all of the different intricacies of your case?

Working together with investigators, social workers, scientific experts, jury consultants (the list goes on) to create an entire defense team is the Holisitc Defense model of criminal representation, and it can be the reality of indigent client representation in Nassau County!

Research shows that holistic defense reduces the likelihood of a custodial sentence by 16% and expected sentence length by 24%, without increasing future crime.

Over the past several months, we have

worked with the Nassau Academy of Law to plan a series of CLE events highlighting the multitude of experts you can include in your defense team and discussing how they can assist you in getting the best possible outcome for your clients. From Mitigation Experts and Investigators, to Jury Consultants and Crime Scene Analysts, your team can include a wide range of experts who can, and usually do, prove invaluable to your defense strategy.

We are thrilled to announce that all of our work is coming to fruition! Beginning this month, the Nassau Academy of Law will be presenting several CLEs designed to highlight just some of the many opportunities you have to employ experts. Each CLE will be presented by a leading expert in their respective field, and will be moderated by a member of the 18b Panel. All of the CLEs in this series will be Dean's Hour events, scheduled to take place during your lunch hour, so you can learn something new and important, get a bite to eat, and make it back to court by 2:00pm.

Here are the upcoming sessions that are planned so far:

DNA Evidence in Your Case: Is it Over Before it Starts? Not So Fast!

Presented by Dr. Mechthild Prinz, PhD, professor of Forensic Genetics at John Jay College of Criminal Justice, moderated by Jeff Groder. September 19, 2024, 12:30 pm-1:30 pm.

Cell Cite Analysis: How to Obtain, Understand, and Interpret Call Detail Report Information

Presented by Jerry Grant, Digital Forensics expert for the Western District of NY federal Defender's Office. Moderated by Joe LoPiccolo. September 26, 2024, 12:30 pm-1:30 pm.

How Can a Trial Consultant Help You Win Your Case?

Presented by Joseph Gustafarro, trial consultant, mitigation specialist, and jury selection expert. Moderated by Steven Raiser. October 1, 2024, 12:30 pm-1:30 pm.

Crime Scene Analysis

Presented by Hal Sherman, Retired 1st Grade Detective & Forensic Evidence Analysis and Reconstruction expert. Moderated by Amanda Vitale. October 10, 2024, 12:30 pm-1:30 pm.

Working With Mitigation Experts to Improve Your Defense Advocacy

Presented by Kim Melendez, LCSW, MEd, NYS Licensed Clinical Forensic Social Worker & Mitigation Specialist. Moderated by Elizabeth Nevins. October 16, 2024, 12:30 pm-1:30 pm.

You can register for all of these programs by visiting the following site; <https://members.nassaubar.org/calendar.aspx>

And this is just the beginning! There are so many resources available to support you. Please come learn about just some of them!



The Man in the Arena

On April 23, 1910, Theodore Roosevelt delivered a speech at the Sorbonne following a year traveling the world on behalf of the Smithsonian Museum. At the time Roosevelt delivered his speech, the world was undergoing a period of significant change. Industrialization was reshaping societies, and the world was grappling with the challenges and opportunities that came with it.

Roosevelt gave one of the most impassioned and resonant calls for civic action and engagement in a time of transformation that has ever been delivered.

We believe his words are particularly relevant to all of you at this moment. “It is not the critic who counts; not the man who points out how the strong man stumbles, or where the doer of deeds could have done them better,” Roosevelt said. “The credit belongs to the man who is actually in the arena, whose face is marred by dust and

sweat and blood; who strives valiantly; who errs, and comes short again and again, because there is no effort without error and shortcoming; but who does actually strive to do the deeds; who knows the great enthusiasms, the great devotions; who spends himself in a worthy cause; who at the best knows in the end the triumph of high achievement, and who at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who know neither victory nor defeat.”

You are all standing in the arena every day, and in the face of great odds and new challenges, you are a reminder that effort and resiliency are what truly matter. We appreciate your perseverance and dedication more than we can say, and we applaud your willingness to climb new mountains.



We would love for you to stop by the 18b Office to check out our new digs! You are cordially invited to an 18b open house on September 25th from 4:00 pm - 5:00 pm. Come say hi and have some coffee and cookies!



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

People v Quimbaya | 2024 WL 3959272

Quimbaya filed a Dunaway/Mapp motion challenging the lawfulness of his initial detention and seeking suppression of a gun recovered during a street encounter with police. After a hearing at which two NYPD detectives testified and the defense presented no evidence, the court suppressed the gun and held there was no probable cause for the arrest. The court determined that observations of a group of young men yelling loudly on the street at 11:00 p.m., standing alone, gave the police only a Level One right to inquire, not reasonable suspicion to stop Quimbaya. The young men were exhibiting no threatening behavior and were not damaging property or attempting physical contact with each other or anyone else. When one detective approached the group from the front, while another approached from behind, they employed a “military-esq pincer movement” that constituted a “constructive detention, as a reasonable person in that position would have found the detectives’ conduct a significant limitation on their freedom.” When Quimbaya then fled, his subsequent abandonment of the gun during the police pursuit was a direct consequence of the improper detention and not sufficiently attenuated. Accordingly, there was no probable cause for the arrest.

https://nycourts.gov/reporter/3dseries/2024/2024_51103.htm#28CASE

Matter of Carol Q. v. Charlie R. | August 29, 2024

The mother, who has an undiagnosed mental health condition, appealed from a Tompkins County Family Court order allowing the father to relocate to Florida and directing that her parenting time with the child be supervised. The Third Department remitted for a hearing as to whether supervised visitation is necessary. The supervisory condition creates a significant restriction on the mother’s ability to exercise her parenting time and unfairly places the burden on the mother to obtain a diagnosis and treatment without any guidance and assistance. It was an abuse of discretion to restrict the mother’s parenting time without an evaluation of the mother’s mental condition. Lisa K. Miller represented the mother.

https://www.nycourts.gov/reporter/3dseries/2024/2024_04351.htm



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.

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