

**WESTCHESTER COUNTY BAR ASSOCIATION**  
**CRIMINAL ASSIGNED COUNSEL PANELS**  
**INFORMATION FOR APPLICANTS**

Enclosed is the Application for Certification to the Assigned Counsel Panel of the Westchester County Bar Association. Included with the Application Form are:

- a) The attorney eligibility requirements;
- b) County Law – Article 18B; and
- c) Rules of the Appellate Division, Second Department, Parts 671 and 691.16

Certification to the Panel is by the Central Screening Committee of the Westchester County Bar Association. The Bar Association has the responsibility of certifying attorneys as competent to provide representation pursuant to the 18B Plan for representation. The application process, which is regulated by committee by-laws, is summarized below.

- 1. Complete your application by answering all questions, attaching any supporting documentation and signing the attorney affirmation. Mail your completed application to:

**Chair, Central Screening Committee**  
**Westchester County Bar Association**  
**4 Westchester Park Drive Suite 155**  
**White Plains, New York 10604**

- 2. Your application will be reviewed for completeness and for demonstration of satisfaction of the minimum requirements. If it is facially deficient, it will be returned to you with instructions. Otherwise it will be referred to a committee member for review. The committee member will contact you directly.
- 3. The committee member will review your application and references (possibly contacting some of them) and arrange an interview with you.

**PLEASE NOTE: \*\*\*APPLICATION SHOULD BE MADE IN DUPLICATE\*\*\***

- 4. After the interview the committee member will recommend to the full committee what action should be taken. You will receive a notice of the Screening Committee's determination by mail. If you are approved for one or more of the panels, the Administrator of the Assigned Counsel Panel will be notified by the Committee. You will receive further details from the Administrator concerning rules and regulations for the conduct of the plan (including payment rules). The Administrator, who is approved by the Appellate Division, will notify the appropriate courts of your addition to the Panel. YOU MAY NOT ACCEPT 18B ASSIGNMENTS UNTIL THIS HAS BEEN DONE.
- 5. If you are denied certification by the Screening Committee, you will receive notice setting forth the reason(s) for the denial. The notice will contain instructions on how to seek a review by the full committee.

PLEASE REMEMBER that panel membership is not a matter of right. It involves payments from public funds discretely set aside for a specific purpose. An attorney's certification to the panel and his or her conduct and performance is consequently regulated, inter alia, by Article 18B of the County Law and the Westchester County Plan: The Rules of the Appellate Division, Second Department and the Office of Court Administration; and the Rules and Regulations of the Screening Committee and the Administrator of the Panel. Except for the source of payment, the relationship existing between you and your client is identical to that existing between any other lawyer and client, with the same duties and responsibilities. The government, including the judicial branch, has a constitutional obligation to respect your professional independence in the representation of your client.

**ATTORNEY ELIGIBILITY REQUIREMENTS**

**A.** To be eligible for appointment to a panel designated pursuant to Article 18B of the County Law, an attorney shall be admitted to practice in the State of New York; and in the opinion of the Bar Association Screening Committee, which shall consider applicant's experience in criminal practice, competent to give effective assistance to clients assigned under Article 18B of the County Law.

**B.** To be eligible for appointment to a felony panel, an attorney shall have been admitted to practice for a minimum of 3 years, unless such requirement is waived pursuant to paragraph "D" below; **and** shall have had substantial experience in the trial of criminal cases.

**C.** To be eligible for appointment to a Class A felony, an attorney shall have been admitted to practice for a minimum of 5 years, unless such requirement is waived pursuant to paragraph "D" below; **and** shall have had substantial experience in the trial of felony cases.

**D.** The minimum requirements may be waived if, in the opinion of the Bar Association Screening Committee, an applicant is otherwise qualified by reason of education, training or substantial trial experience.

**E.** The Bar Association Screening Committee shall have the power without application by a panel member to appoint said attorney to any panel.

**F.** The Bar Association Screening Committee may establish co-counsel or mentoring programs to provide experience to attorneys who wish to serve on the panel but lack the qualifications required by paragraphs "A" "B" or "C".

**G.** The Bar Association Screening Committee may establish training and education programs for members of the panel(s). Such programs may be established in conjunction with other Bar Associations, law schools or other professional associations. The Screening Committee may make attendance at training programs a requirement for continued membership on the panels.

**H.** The Bar Association Screening Committee may set forth such additional eligibility requirements and procedures for each panel, as it sees fit, subject to approval by the Appellate Division.

**I.** Appointments to the panel shall not exceed three years. Successive designations may be made.

**J.** Any panel member presently on the felony panel wishing to be approved for the A felony panel must make application to the Committee.

**Amendments:**

**K.** To be eligible for appointment to a panel for parole revocation hearings, an attorney shall have been admitted to practice for a minimum of three years and be otherwise eligible for the felony panel or be on the felony panel or have, if not eligible above, substantial parole hearing experience. (Adopted 10/05/92)

**L.** To be eligible for appointment to assist in a felony trial (2nd seat) the attorney appointed to assist must be a member of the Felony Panel. (Adopted 03/21/94)

**M.** To be eligible for appointment to assist in an "A" felony trial (2nd seat) the attorney to assist must be a member of the "A" felony panel. (Adopted 03/21/94)

**N.** The following amendments to the appellate qualifications are as follows. The applicant must:

1. Be admitted for two years.
2. Have substantial criminal law experience.
3. Submit writing samples such as a brief, law review article, or similar publication.

The committee will consider certifications by appellate attorneys as to the experience or appellate work of the applicant.

O. The quorum required for the Committee to act is 4 members.

P. "Competent to give effective assistance" as contained in "A" of "ATTORNEY ELIGIBILITY REQUIREMENTS" shall require as a minimum that the applicant meets one of the following standards.

**METHOD A**

1. Has had actual court experience in that applicant:
  - (a) Has handled five criminal matters that resulted in a negotiated plea, dismissal or another non-trial disposition, AND,
  - (b) Has had three non-jury criminal trials, OR,
  - (c) Has had one criminal jury trial which proceeded to verdict, AND,
  - (d) Applicant has taken or agrees to take when next given the Westchester County Bar Association Central Screening Committee's course in criminal law, practice and procedure.

**METHOD B**

1. Has appeared in court as co-counsel with an experienced criminal law practitioner on at least five criminal cases involving at least:
  - (a) Three negotiated pleas, dismissals or other non-trial disposition.
  - (b ) (i) One litigated motion in which testimony was taken and a decision rendered, OR  
(ii) One preliminary hearing in which testimony was taken and a decision rendered.
  - (c) One jury trial which proceeded to verdict, AND,
  - (d) Applicant has taken or agrees to take within the next year the Westchester County Bar Association Central Screening Committee's course in criminal law, practice and procedure.
2. Along with the application proof must be submitted as to completion of the above requirements. Such proof shall consist of:
  - (a) The names of the judges before whom any preliminary hearing, litigated motion or trial was conducted.
  - (b) The names of the trial or hearing adversaries.
  - (c) The names of any co-defendant's counselor attorney's familiar with the applicant's work in court.
  - (d) The name of the attorney with whom the defendant acted as co-counsel.

**METHOD C**

1. A former judge or justice of any court that has criminal jurisdiction.

(Adopted 6/27/11)

Q. To be eligible for appointment or re-certification the applicant must live in, or have their principal office in Westchester County. A copy of the applicant's most recent application for biannual registration or the receipt must be attached to the application. (Adopted 11/21/16)

R. An additional panel for the prosecution of appeals by sex offender defendants in MHL Article 10 hearings as well as appeals resulting from said hearings is established. Applicants to be eligible must be on the appellate panel or meet the standards for the panel set forth in paragraph "N" above, and must provide proof of attendance or viewing of the training program established by the Mental Hygiene Legal Service and the Appellate Division accessible at [www.courts.state.ny.us/courts/ad2/mhls\\_mainpage.shtml](http://www.courts.state.ny.us/courts/ad2/mhls_mainpage.shtml) .  
(Revised November 9, 2015)

**Rules of the Appellate Division, Second Department**

**22 NYCRR §691.16**

**§691.16 Attorneys Assigned by the Court as Counsel for a Defendant in a Criminal Case**

(a) No attorney assigned by a court as counsel for a defendant in any criminal case shall in any manner demand, accept, receive or agree to accept or receive any payment, compensation, emolument, gratuity or reward or any promise, property or thing of value or of personal advantage from such defendant or from any other person, except as expressly authorized by statute.

(b) No attorney assigned by a court as counsel for an indigent defendant in any criminal case shall, during the pendency thereof, accept a private retainer to represent the defendant in that or any other case.

(c) Violation of this section shall result in the removal of the attorney's name from the panel of attorneys eligible to receive assignment pursuant to article 18-B of the County Law and shall constitute a violation of § 1200.3(5) of this Title.

(Amended by Administrative Order – ADM 2004-0623, June 23, 2004)

**22 NYCRR § 671**

**PART 671. ADDITIONAL DUTIES OF COUNSEL AND THE COURT CLERK IN CRIMINAL ACTIONS, IN HABEAS CORPUS AND CPLR ARTICLE 78 PROCEEDINGS, IN PROCEEDINGS INSTITUTED BY MOTION MADE PURSUANT TO CPL 440.10 OR 440.20 AND FAMILY COURT ACT PROCEEDINGS**

**§ 671.1 Application**

(a) This Part of the rules is applicable in criminal actions or proceedings and in proceedings involving post-judgment motions made pursuant to CPL 440.10 or 440.20, and in habeas corpus and CPLR Article 78 proceedings arising out of criminal actions or proceedings or accusatory instruments indictments or information.

(b) Unless the context requires otherwise, any reference herein to the defendant means either the defendant in a criminal action or proceeding or the defendant, the petitioner or the relator in a proceeding instituted on motion made pursuant to CPL 440.10 or 440.20 or in a proceeding under CPLR Article 78 or in a habeas corpus proceeding.

(c) Unless the context requires otherwise, any reference herein to counsel for the defendant means every attorney who represents the defendant (as herein defined), regardless of whether such attorney shall have been retained or whether he shall have been assigned by the court or whether he be the public defender.

(d) Unless the context requires otherwise, any reference to the People's counsel means either the district attorney or other prosecutor as defined in CPL 1.20, or, as the case may be, the Attorney General or the county attorney or any other attorney who may appear for the People or for any public official joined as a party in his official capacity.

Cross References

CPLR, see McKinney's Book 7B

Criminal Procedure Law, see McKinney's Book 11A

**§ 671.2 Duration of Representation by Counsel for Defendant**

In every criminal action or proceeding specified in section 671.1 hereof the duration of the representation by counsel for the defendant shall be as follows:

(a) in the trial court, until determination of the action or proceeding and until counsel shall have performed the additional duties imposed upon him by these rules; and

(b) in the appellate court, until entry of the order determining the appeal and until counsel shall have performed the additional duties imposed upon him by these rules. Thereupon such counsel's representation shall come to an end.

### § 671.3 Additional Duties of Defendant's Counsel in the Trial Court

(a) Upon conviction in the trial court or upon denial in that court of a motion made pursuant to CPL 440.10 or 440.20 or the denial or dismissal of an application in a habeas corpus or CPLR article 78 proceeding, it shall be the duty of the counsel for the defendant, immediately after the pronouncement of sentence or after service upon him of a copy of the order denying the motion or of the order or judgment denying or dismissing the application, to give, either by mail or personally written notice to his client advising him of his right to appeal pursuant to CPL 460.10 (subdivision 4); and requesting his written instructions as to whether he desires to take an appeal or make such application. Thereafter, if the client gives to counsel timely written notice of his desire to appeal or to make such application, counsel shall promptly serve and file the necessary formal notice of appeal or application to the appropriate appellate court. If the application be granted, then, within the time limitations and in the manner provided in CPL 460.10 (subdivision 4), counsel shall also file the order or certificate granting leave to appeal together with a written notice of appeal. Unless counsel shall have been retained to prosecute the appeal, the notice of appeal in every case shall contain the additional statement that it is being served and filed on appellant's behalf pursuant to this rule and that it shall not be deemed to be counsel's appearance as appellant's attorney upon appeal.

(b) In counsel's written notice to his client advising him of the right to appeal or to make application for permission to appeal or for a certificate granting leave to appeal, counsel shall also set forth:

(1) the applicable time limitations with respect to the making of the application for permission to appeal or for a certificate granting leave to appeal, counsel and the prosecution of the appeal;

(2) the manner of instituting the appeal and, if a trial or bearing was held and stenographic minutes taken, the manner of obtaining a typewritten transcript of such minutes; and

(3) the appellant's right, upon proof of his financial inability to retain counsel and to pay the costs and expenses of the appeal, to make application to the appellate court for the following relief: for the assignment of counsel to prosecute the appeal; for leave to prosecute the appeal as a poor person and to dispense with printing; and if stenographic minutes were taken, for a direction to the clerk and the stenographer of the trial court that a typewritten transcript of such minutes be furnished without charge to the appellant's assigned counsel or, if appellant prosecutes the appeal pro se, to appellant.

(4) In such notice counsel shall also request the written instructions of his client, and if the client thereafter gives counsel timely written notice of his desire to make application for permission to appeal or for a certificate granting leave to appeal or to apply for the relief provided in paragraph (3) hereof, or to make any one or all of these applications, counsel shall proceed promptly to do so.

(c) Counsel shall also advise the client that in those cases where permission to appeal or where certificates granting leave to appeal are required, applications for the foregoing relief will be considered only if, as and when such permission is granted or such certificate is issued.

(d) In the event the People are the appellant and they elect to serve a copy of their notice of appeal upon the defendant, pursuant to their authority to do so under CPL 460.10, subdivision 1(c), they shall also serve a copy thereof upon the attorney who last appeared for the defendant in the court in which the order or sentence being appealed was entered.

(e) If, pursuant to CPL 460.10, subdivision 1(c), the People as appellant elect to serve a copy of their notice of appeal in the first instance upon the attorney who last appeared for the defendant in the court in which the order or sentence being appealed was entered, or if they serve the attorney as required in subdivision (d) hereof, it shall be the duty of the attorney so served to give, either by mail or personally, written notice to his client confirming the fact that such appeal has been taken by the People. Such notice shall also advise his client of his right to retain counsel to represent him as respondent on the appeal, or (2) to respond to the appeal pro se, or (3) upon proof of his financial ability to retain counsel and to pay the cost and expenses of responding to the appeal, to make application to the appellate court for the following relief: for the assignment of counsel to represent him as the respondent on the appeal; for leave to respond to the appeal as a poor person and to dispense with printing; and if stenographic minutes were taken, for a direction to the clerk and the stenographer of the trial court that a typewritten transcript of such minutes be furnished without

charge to the respondent's assigned counsel or, if the defendant appears as respondent pro se, to respondent. In such notice counsel shall also request the written instructions of his client, and, if the client thereafter gives counsel timely written notice of his desire to make such application, counsel shall proceed promptly to do so.

(f) In the event, however, the attorney was the defendant's assigned counsel in the court in which the order or sentence being appealed was entered, such assignment shall remain in effect and counsel shall continue to represent the defendant as the respondent on the appeal until entry of the order determining the appeal and until counsel shall have performed any additional applicable duties imposed upon him by these rules, or until counsel shall have been otherwise relieved of his assignment. In the event the assignment remains in effect as herein provided, the written notice to be the client as provided in subdivision (e) hereof may be dispensed with, except to the extent of confirming the fact that such appeal has been taken by the People.

#### Cross References

CPLR, see McKinney's Book 7B

Criminal Procedure Law, see McKinney's Book 11A

### **§ 671.4 Additional Duties of Defendant's Counsel in the Appellate Division or Other Intermediate Appellate Court**

(a) Immediately after entry of the order of the Appellate Division or other intermediate appellate court affirming the judgment of conviction or sentence or the order denying a motion made pursuant to CPL 440.10 or 440.20 or the order or judgment denying or dismissing a habeas corpus or CPLR Article 78 application or proceeding, it shall be the duty of the counsel for the defendant, to give, either by mail or personally, written notice to his client advising him:

(1) of his right to make application for permission to take a further appeal or for a certificate granting leave to appeal to the Court of Appeals; and

(2) in the event such permission is granted or such certificate is issued, of his additional right, upon proof of his financial inability to retain counsel and to pay the costs and expenses of such further appeal, to make a concurrent application to the Court of Appeals for the assignment of counsel and for leave to prosecute such further appeal as a poor person and to dispense with printing. In such notice counsel shall also request the written instructions of his client. If the client thereafter gives to counsel timely written notice of his desire to make either or both of such applications, counsel shall proceed promptly to do so.

(b) In a habeas corpus or CPLR article 78 proceeding, however, if any two judges shall have dissented from the affirmance and if the dissent is on a stated question of law in relator's or petitioner's favor, counsel in his said written notice shall advise his client of his absolute right, without permission, to take a further appeal to the Court of Appeals. Upon receiving from the client written notice of his desire to prosecute such appeal, counsel shall file and serve promptly a formal notice of appeal accordingly. Unless counsel shall have been retained to prosecute the appeal, the notice of appeal shall contain the additional statement that it is being and filed on appellant's behalf pursuant to this rule and that it shall not be deemed counsel's appearance as appellant's attorney upon the appeal.

(c) In the event the People are the appellant and they elect to serve a copy of their notice of appeal upon the defendant pursuant to their authority to do so under CPL 460.10, subdivision 5(c), they shall also serve a copy thereof upon the attorney who appeared for the defendant in the intermediate court.

(d) If, pursuant to said CPL 460.10, subdivision 5(c), the People as appellant elect in the first instance to serve a copy of their notice of appeal on the attorney who appeared for the defendant in the intermediate appellate court, or if they serve the attorney as required in subdivision (c) of this section, it shall be the duty of counsel for the defendant to give, either by mail or personally, written notice to his client confirming the fact that such appeal has been taken by the People. Such notice shall also advise him of his right (1) to retain counsel to represent him as respondent on the appeal, or (2) to respond to the appeal, pro se, or (3) upon proof of his financial inability to retain counsel and to pay the costs and expenses of responding to such appeal as a poor person and to dispense with printing. In such notice counsel shall also request the written instructions of his

client. If the client thereafter gives counsel timely written notice of his desire to make such application, counsel shall proceed promptly to do so.

(e) In the event the appeal by the People results in an order of an intermediate appellate court adverse or partially adverse to the defendant-respondent, it shall be the duty of counsel to comply with the written notice provisions of subdivision (a) of this section applicable to an affirmance on an appeal by the defendant except that the term "further appeal" in paragraphs (1) and (2) thereof shall be deemed to read "appeal."

Cross References

CPLR, see McKinney's Book 7B

Criminal Procedure Law, see McKinney's Book 11A

**§ 671.9 Additional Duties of the Court and of Defendant's Counsel in Connection with Trial Court Transcripts**

Where furnishing of a daily copy of a transcript, is order by the court, the ribbon copy thereof shall be delivered to the court and a carbon copy to counsel for the defendant. Both the court and counsel for the defendant shall be duty-bound to preserve their respective copies. At the conclusion of the trial or hearing, trial counsel for the defendant shall, if an appeal is taken, deliver said carbon copy to appellant's counsel immediately on being advised of the name and address of said appellant's counsel. At the conclusion of the trial or hearing and forthwith after the decision or verdict, as the case may be, the ribbon copy shall be delivered by the court to the county clerk for filing. The ribbon copy and the carbon copy shall constitute the two transcripts of the proceedings required by section 460.70 of the Criminal Procedure Law.

Cross References

Criminal Procedure Law, see McKinney's Book 11A

## **ARTICLE 18-B OF THE COUNTY LAW**

### **§ 722.** Plan for representation.

722-a. Definition of crime.

722-b. Compensation and reimbursement for representation.

722-c. Services other than counsel.

722-d. Duration of assignment.

722-e. Expenses

### **§ 722.** Plan for representation

The governing body of each county and the governing body of the city in which a county is wholly contained shall place in operation throughout the county a plan for providing counsel to persons charged with a crime or who are entitled to counsel pursuant to section two hundred sixty-two or section eleven hundred twenty of the family court act, article six-C of the correction law, section four hundred seven of the surrogate's court procedure act or article ten of the mental hygiene law, who are financially unable to obtain counsel. Each plan shall also provide for investigative, expert and other services necessary for an adequate defense. The plan shall conform to one of the following:

1. Representation by a public defender appointed pursuant to county law article eighteen-A.
2. In criminal proceedings, representation by counsel furnished by a private legal aid bureau or society designated by the county or city, organized and operating to give legal assistance and representation to persons charged with a crime within the city or county who are financially unable to obtain counsel. In proceedings under the family court act, representation by a private legal aid bureau or society, or by any corporation, voluntary association, or organization permitted to practice law under the authority of subdivision five of section four hundred ninety-five of the judiciary law.
3. Representation by counsel furnished pursuant to a plan of a bar association in each county or the city in which a county is wholly contained whereby the services of private counsel are rotated and coordinated by an administrator, and such administrator may be compensated for such service. Any plan of a bar association must receive the approval of the state administrator before the plan is placed in operation. In the county of Hamilton, such representation may be by counsel furnished by the Fulton county bar association pursuant to a plan of the Fulton county bar association.
4. Representation according to a plan containing a combination of any of the foregoing. Any judge, justice or magistrate in assigning counsel pursuant to sections 170.10, 180.10, 210.15 and 720.30 of the criminal procedure law, or in assigning counsel to a defendant when a hearing has been ordered in a proceeding upon a motion, pursuant to article four hundred forty of the criminal procedure law, to vacate a judgment or to set aside a sentence or on a motion for a writ of error coram nobis, or in assigning counsel pursuant to the provisions of section two hundred sixty-two of the family court act or section four hundred seven of the surrogate's court procedure act, or in assigning counsel to a defendant when a case has been calendared for consideration of resentencing pursuant to subdivision four of section six hundred one-d of the correction law or when a court is otherwise called upon to consider whether a proper term of post-release supervision was imposed as part of a determinate sentence, shall assign counsel furnished in accordance with a plan conforming to the requirements of this section; provided, however, that when the county or the city in which a county is wholly contained has not placed in operation a plan conforming to that prescribed in this subdivision or subdivision three of this section and the judge, justice or magistrate is satisfied that a conflict of interest prevents the assignment of counsel pursuant to the plan in operation, or when the county or the city in which a county is wholly contained has not placed in operation any plan conforming to that prescribed in this section, the judge, justice or magistrate may assign any attorney in such county or city and, in such event, such attorney shall receive compensation and reimbursement from such county or city which shall be at the same rate as is prescribed in section seven hundred twenty-two-b of this article. When a case has been calendared for consideration of resentencing pursuant to subdivision four of section six hundred one-d of the correction law or when a court is otherwise called upon to consider whether a proper term of post-release supervision was imposed as part of a determinate sentence, the attorney appointed should be the attorney who appeared for the defendant in connection with the judgment or sentence or, if the defendant is currently represented

concerning his or her conviction or sentence or with respect to an appeal from his or her conviction or sentence, such present counsel.

5. In classification proceedings under article six-C of the correction law or from an appeal thereof, representation shall be according to a plan described in subdivisions one, two, three or four of this section. If such plan includes representation by a private legal aid bureau or society, such private legal aid bureau or society shall have been designated to give legal assistance and representation to persons charged with a crime.

Upon an appeal in a criminal action, and on any appeal described in section eleven hundred twenty of the family court act, article six-C of the correction law or section four hundred seven of the surrogate's court procedure act, wherein the party is financially unable to obtain counsel, the appellate court shall assign counsel furnished in accordance with the plan, conforming to the requirements of this section, which is in operation in the county or in the city in which a county is wholly contained wherein the judgment of conviction, disposition, or order of the trial court was entered; provided, however, that when such county or city has not placed in operation a plan conforming to that prescribed in subdivision three or four of this section and such appellate court is satisfied that a conflict of interest prevents the assignment of counsel pursuant to the plan in operation, or when such county or city has not placed in operation any plan conforming to that prescribed in this section, such appellate court may assign any attorney in such county or city and, in such event, such attorney shall receive compensation and reimbursement from such county or city which shall be at the same rate as is prescribed in section seven hundred twenty-two-b of this chapter.

**§ 722-a.** Definition of crime

For the purposes of this article, the term "crime" shall mean a felony, misdemeanor, or the breach of any law of this state or of any law, local law or ordinance of a political subdivision of this state, other than one that defines a "traffic infraction," for which a sentence to a term of imprisonment is authorized upon conviction thereof.

**§ 722-b.** Compensation and reimbursement for representation

1. All counsel assigned in accordance with a plan of a bar association conforming to the requirements of section seven hundred twenty-two of this article whereby the services of private counsel are rotated and coordinated by an administrator shall at the conclusion of the representation receive:

(a) for representation of a person entitled to representation by law who is initially charged with a misdemeanor or lesser offense and no felony, compensation for such misdemeanor or lesser offense representation at a rate of sixty dollars per hour for time expended in court or before a magistrate, judge or justice, and sixty dollars per hour for time reasonably expended out of court, and shall receive reimbursement for expenses reasonably incurred; and

(b) for representation of a person in all other cases governed by this article, including all representation in an appellate court, compensation at a rate of seventy-five dollars per hour for time expended in court before a magistrate, judge or justice and seventy-five dollars per hour for time reasonably expended out of court, and shall receive reimbursement for expenses reasonably incurred.

2. Except as provided in this section, compensation for time expended in providing representation:

(a) pursuant to paragraph (a) of subdivision one of this section shall not exceed two thousand four hundred dollars; and

(b) pursuant to paragraph (b) of subdivision one of this section shall not exceed four thousand four hundred dollars.

3. For representation on an appeal, compensation and reimbursement shall be fixed by the appellate court. For all other representation, compensation and reimbursement shall be fixed by the trial court judge. In extraordinary circumstances a trial or appellate court may provide for compensation in excess of the foregoing limits and for payment of compensation and reimbursement for expenses before the completion of the representation.

4. Each claim for compensation and reimbursement shall be supported by a sworn statement specifying the time expended, services rendered, expenses incurred and reimbursement or compensation applied for or received in the same case from any other source. No counsel assigned hereunder shall seek or accept any fee for representing the party for whom he or she is assigned without approval of the court as herein provided.

**§ 722-c. Services other than counsel**

Upon a finding in an ex parte proceeding that investigative, expert or other services are necessary and that the defendant or other person described in section two hundred forty-nine or section two hundred sixty-two of the family court act, article six-C of the correction law or section four hundred seven of the surrogate's court procedure act, is financially unable to obtain them, the court shall authorize counsel, whether or not assigned in accordance with a plan, to obtain the services on behalf of the defendant or such other person. The court upon a finding that timely procurement of necessary services could not await prior authorization may authorize the services nunc pro tunc. The court shall determine reasonable compensation for the services and direct payment to the person who rendered them or to the person entitled to reimbursement. Only in extraordinary circumstances may the court provide for compensation in excess of one thousand dollars per investigative, expert or other service provider.

Each claim for compensation shall be supported by a sworn statement specifying the time expended, services rendered, expenses incurred and reimbursement or compensation applied for or received in the same case from any other source.

**§ 722-d. Duration of assignment**

Whenever it appears that the defendant is financially able to obtain counsel or to make partial payment for the representation or other services, counsel may report this fact to the court and the court may terminate the assignment of counsel or authorize payment, as the interests of justice may dictate, to the public defender, private legal aid bureau or society, private attorney, or otherwise.

**§ 722-e. Expenses**

All expenses for providing counsel and services other than counsel hereunder shall be a county charge or in the case of a county wholly located within a city a city charge to be paid out of an appropriation for such purposes.

**APPLICATION TO THE ASSIGNED COUNSEL PLAN  
WESTCHESTER COUNTY BAR ASSOCIATION**

Date: \_\_\_\_\_

\_\_\_ Initial

\_\_\_ Upgrading

\_\_\_ Re-Certification

(Please Print)

Name: \_\_\_\_\_

Home Address: \_\_\_\_\_

Home Phone: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Office Address: \_\_\_\_\_

Office Phone: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Office Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

Please direct correspondence to:      \_\_\_ Home                      \_\_\_ Office

(Please note: the address you choose will be the published address for the courts and potential clients)

Indicate the Westchester panel(s) to which you are currently certified (if applicable):

\_\_\_ Misdemeanor \_\_\_ Felony \_\_\_ Class A Felony \_\_\_ Appellate \_\_\_ Parole \_\_\_ MHL Article 10 Appeals

Indicate the panel(s) for which you are applying:

\_\_\_ Misdemeanor \_\_\_ Felony \_\_\_ Class A Felony \_\_\_ Appellate \_\_\_ Parole \_\_\_ MHL Article 10 Appeals

Law School: \_\_\_\_\_

Graduation Date: \_\_\_\_\_

When and where were you admitted to the New York Bar?

Date: \_\_\_/\_\_\_/\_\_\_      Department: \_\_\_\_\_  
          MM/ YYYY

**1. List all law positions held since graduating, including part-time employment and clerkships:  
(Provide name and address of employer or judge and dates of employment)**

Employer: \_\_\_\_\_ Position: \_\_\_\_\_

Address: \_\_\_\_\_ From/To: \_\_\_\_\_

**2. Present law position or title held (e.g. partner, associate, individual, private practice, etc.)**

**3. General nature of current practice (e.g. criminal – trial or appellate; civil litigation; corporate, etc.; general; etc.)**

**4. In how many criminal cases have you participated as sole or principal counsel? \_\_\_\_\_**

During the last 5 years? \_\_\_\_\_

**5. In your career how many were:** Felonies \_\_\_\_\_ Misdemeanors \_\_\_\_\_

In the last 5 years: Felonies \_\_\_\_\_ Misdemeanors \_\_\_\_\_

**6. How many resulted in:**

	Career (Estimated)		Last 5 Years	
	Fel.	Misd.	Fel.	Misd.
Negotiated pleas:	___	___	___	___
Dismissals:	___	___	___	___
Other non-trial dispositions:	___	___	___	___
Jury trials completed to verdict:	___	___	___	___
Bench trials completed to verdict:	___	___	___	___
Litigated motions in which testimony was taken and a decision rendered:	___	___	___	___

**7. How many of each of the following types of witnesses have you examined during litigated motions or trials in criminal cases?**

Ballistics Experts	_____	Police Officers	_____
FBI/DEA/ATF Agents	_____	Psychiatrist	_____
Chemist/Lab Tech	_____	Psychologist	_____
Fingerprint Experts	_____	Serologist	_____
Medical Examiners	_____	Undercover Agents	_____
Medical Experts	_____	Other	_____

8. In how many civil cases have you participated as sole or principal counsel? \_\_\_\_\_

9. Of those cases, how many:

- Resulted in jury trials that proceeded to verdict? \_\_\_\_\_
- Mid-Trial settlement? \_\_\_\_\_
- Pre-Trial settlement? \_\_\_\_\_
- Dismissal or other non-trial disposition? \_\_\_\_\_

10. During the last five years in how many appellate cases, criminal and civil were you involved as sole or principal counsel?

Criminal \_\_\_\_\_ Civil \_\_\_\_\_

11. Of those cases, in how many cases in each court listed did you personally author the brief or argue the appeal?

	Authored Brief	Argued Appeal
Appellate Term	_____	_____
Appellate Division	_____	_____
N.Y. Court of Appeals	_____	_____
U.S. Court of Appeals	_____	_____
Other _____	_____	_____

12. Have you ever taken criminal cases on pro-bono basis? If so, state the number of cases and provide a brief description of each:

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13. In your law school did you complete a clinical, advocacy, trial practice or other lawyering skills training course? If so, state:

Title of Course: \_\_\_\_\_ Name of Instructor: \_\_\_\_\_

Number of Credit Hours: \_\_\_\_\_

Description of Course and Skills: \_\_\_\_\_

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14. Have you attended any continuing legal education courses that teach trial skills? If so, provide particulars:

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15. Have you completed any other criminal trial techniques program: If so, attach certificate of attendance or reference from instructor.

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16. Have you participated in any kind of co-counsel program? If so, provide the name, address, and phone number of the attorney with whom you worked and attach an affidavit from him/her attesting to the nature and quality of your work.

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17. Do you have any other relevant legal experience that you feel will be helpful in evaluating your competence to serve on the panels for which you have applied? If so, state particulars (use addendum if necessary)

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18. Do you have any special training or skills, including foreign language proficiency, that you feel will be helpful in your ability to serve on the panels for which you have applied: (If so, please state particulars. Please note foreign language proficiency should be well enough to handle unspeaking clients.)

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19. Indicate all assigned counsel panels of which you are currently a member: (and the year you were approved for the panel)

			Year
<input type="checkbox"/>	CJA – Southern District		<input type="checkbox"/>
<input type="checkbox"/>	CJA – Eastern District		<input type="checkbox"/>
<input type="checkbox"/>	18B – First Department		<input type="checkbox"/>
	Year		Year
<input type="checkbox"/>	Criminal Court	<input type="checkbox"/>	Supreme Ct.
<input type="checkbox"/>	Homicide	<input type="checkbox"/>	Appellate Div.
<input type="checkbox"/>	18B – Second Department		
<input type="checkbox"/>	Kings Cty.	<input type="checkbox"/>	Nassau Cty.
<input type="checkbox"/>	Queens Cty.	<input type="checkbox"/>	Westchester Cty.
<input type="checkbox"/>	Richmond Cty.	<input type="checkbox"/>	Other

20. Have you ever been denied or refused certification or admission to any assigned counsel panel? If so, please state particulars:

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**21. Have you ever been relieved from an assigned case? If so, please state particulars:**

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**22. Have you ever been suspended, removed, dropped or asked to resign from any assigned counsel panel (for reasons other than the scheduled reformulation of the panel)? If so, please state particulars (use addendum, if necessary):**

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**23. Have you ever been held in contempt? If so, please state particulars:**

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**24. Have you ever been the subject of a complaint to a bar association or departmental grievance committee which resulted in your admonition, reprimand or censure, your suspension from the practice of law or your disbarment: If so, please state particulars:**

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**25. Have you ever been convicted of a crime in this state or in any jurisdiction of an offense which if committed in New York would constitute a crime: If so, please state particulars:**

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**26. List the names, addresses, and telephone numbers of five trial co-counsel or adversaries (if applying for felony or misdemeanor panel) or appellate adversaries (if applying for the appellate panel) within the last five years:**

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**27. List the names, addresses and telephone numbers of five other attorneys familiar with your trial or appellate work through actual observation.**

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**28. List the names, addresses and telephone numbers of five judges before whom you have conducted a litigated motion or jury trial.**

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**29. Regarding each of your five most recent jury trials, (or, if fewer bench trials or litigated motions) list the case name, indictment number, principal charge, adversary, judge presiding, and co-counsel, if any:**

Defendant	Docket #	Charge	Adversary	Judge	Co-Counsel
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

**AFFIRMATION**

I hereby affirm under penalty of perjury that the information provided by me on this application is correct and complete to the best of my knowledge. I similarly affirm that I have read and am familiar with Article 18B of the County Law; and Parts 671 and of the 691 Rules of the Appellate Division, Second Department. I agree to abide by all rules and regulations now existing or from time to time promulgated by the Appellate Division, Second Department, the WCBA Screening Committee and the Administrator of the Assigned Counsel Panel relating to the conduct of the Plan.

DATED:

\_\_\_\_\_  
Attorney Signature