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**Cc:** Tina C. Bennet Esq. and Beth A. Lockhart Esq.; Courtney Radick; Oswego County Bar Association

**Subject:** ASSIGNED COUNSEL PROGRAM COMMENTS FOR PUBLIC HEARING

Both Ms. Lockhart and I were previously on the panel in Onondaga County where our practice was located. We have never experienced such difficulties with communicating with the Assigned Counsel or getting paid for services rendered both on time and properly. It was and continues to be a nightmare for good qualified attorneys to accept assignments in Onondaga County. Onondaga County makes sure only a select few get paid while others are being forced off the panel (starved out) for failing to pay their legitimate vouchers.

This office practices in Madison, Cayuga, Cortland, Oneida, Tioga, Jefferson, Delaware, and Monroe Counties. We have seen the difference in which all of these assigned counsel programs work compared to Onondaga County. I am presently on the panel for Madison County. Even though I do not receive many assignments (maybe one or two a year) I get paid within a week of submitting a voucher and there are no reductions to the payment. This office has been asked by some of the other counties to become part of their respective panels but we have declined so that we are not reliant on the Courts to provide us with a steady source of income. I see this as problematic for all of the attorneys that are on any of the panels because a Judge assigns the attorneys and not the assigned counsel program. We believe that this causes a conflict in their representation of clients because of their fear of losing assignments if they take a position contrary to the Judge or if a Judge just doesn't like you for whatever the reason. This has happened to me - Judge McDermott - sent me a letter stating he would never give me an assignment. Luckily my practice does not rely on assignments. We are good attorneys that is why we are self sufficient in this area of law; however, we would love to take assignments because we know what we are doing and would rather have an indigent person be adequately represented on the first go around rather than retaining this office to fix their mess.

There needs to be ethical guidelines for those assigned attorneys practicing family law because even if it is not a monetarily covered or a chargeable event an attorney still has an obligation to advise them of their rights when things transpire during the course of litigation such as indicated reports or filing the required petitions.

Common statements amongst members of the bar is that "its an assigned attorney what did you expect." Assigned attorneys don't get paid for motion practice or for modification petitions which are necessary to counter a violation of child support petition and so on. The assigned attorneys do not even advise their clients during a custody matter that they have an administrative right to challenge an indicated report which would help in their custody case.

As for attorneys that are on the panel we suggest that there be a centralized website or a function on the unified courts website that allows indigent persons to pre qualify for the assignment prior to the filing of their petition. It would then be the court clerk's function to refer the person to the website including having a computer available for the person at the courthouse to get prequalified and once prequalified print the form out and submit to the clerk who would then based upon another computer program randomly select an attorney to represent that individual or allow the individual access to view members on the panel and to request an individual attorney to represent them. This computer program would also track how many assignments an attorney was receiving from a particular county because all the courts would be linked and perhaps could show if attorneys were receiving assignments in other counties too. This would eliminate favoritism, would equalize the assignments in a County, and allow an attorney the autonomy to do his or her job for a client.

Thank you for taking the time to read our office's comments.

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