

NOTICE TO ASSIGNED COUNSEL

Enclosed is a copy of this Court's order assigning you as counsel. Counsel should serve and file the preliminary appeal statements (*see* Court of Appeals Rules of Practice Rule 500.9) immediately, if this has not already been done.

The Clerk's office will obtain the original file from the clerk of the court of original instance or other custodian thereof and upon request will provide the file for your use. Assigned counsel are required to file an appendix (*see* Rule 500.14) unless the order states otherwise. The appendix should be sufficient by itself to permit the Court to review the issues raised on the appeal. In a criminal case, whenever suppression of evidence is an issue on the appeal, the appendix must include a copy of the trial court's findings of fact and conclusions of law, if any.

Papers used in appeals in criminal cases involving parties without funds shall otherwise comply in form and content with Court rules and, on application by assigned counsel the reasonable cost of furnishing and reproducing necessary papers and briefs shall be reimbursed in accordance with law.

Assigned counsel shall employ the least expensive method of reproduction and should seek pre-approval from the Clerk or Deputy Clerk for reimbursement of anticipated costs and disbursements in excess of \$500.

If this matter is scheduled for oral argument, the Court expects assigned counsel to appear personally. Assigned counsel will be reimbursed for reasonable argument-related expenses.

PROCEDURE TO BE FOLLOWED BY COUNSEL ASSIGNED IN
THIS COURT IN SEEKING A FEE AND DISBURSEMENTS

At the conclusion of the assignment in this Court (that is, after decision has been rendered), you must complete a Voucher for Assigned Counsel and attach an itemized statement of services and expenses, and return both to the Clerk's Office.

The itemized statement of services and expenses should include:

- (A) An hourly account of time spent in and out of court in preparation for and in argument of the appeal in this Court, broken into categories such as reading and studying record, research, brief writing, travel, and oral argument. Fees will be computed using the applicable statutory rates and maximums (*see* County Law § 722-b(1), (2); Judiciary Law § 35). If you claim extraordinary circumstances under the statute (Judiciary Law § 35 or County Law § 722-b[3]) which you believe deserve a fee in excess of the authorized maximum, you must support such claim by a detailed statement in your affirmation (devoting an extraordinary amount of time to the appeal does not alone qualify for an excess fee);
- (B) A description and itemization of disbursements necessarily incurred on the assignment; including cost of reproducing your brief (and appendix, if appropriate); a copy of bills should be annexed to the affirmation. Note that only reasonable, minimum printing rates for your area will be allowed. Various other disbursements such as transportation, board, meals and telephone calls, etc., if necessary, can be allowed; stenographic services, however, are generally considered a part of your assignment and part of the fee awarded.

Upon examination and approval by the Court, an order will issue from the Clerk's office, fixing your fee and disbursements and a copy of this order will be sent to you with such further instructions as may be appropriate. A voucher form is enclosed.

VOUCHER FOR ASSIGNED COUNSEL

To receive the statutory compensation and reimbursement for expenses, counsel assigned by the Court of Appeals must return this completed voucher, *with an attached itemized statement of services and expenses*, to the Clerk's Office at 20 Eagle Street, Albany NY 12207.

As of April 1, 2023, County Law § 722-b provides that the hourly rate for appellate court representation is \$158. For services rendered before April 1, 2023, the hourly rate for appellate court representation is \$75.

The statutory maximum for compensation is \$10,000. A request for compensation above the statutory maximum must be accompanied by a detailed affirmation demonstrating extraordinary circumstances.

_____, an attorney-at-law, was assigned by the Court of Appeals to represent _____ by order of the Court of Appeals dated _____. I certify under penalty of perjury that this request for compensation and expenses, as further detailed in the attached itemized statement specifying the time expended, services rendered and expenses incurred, is true and correct and I have not applied for or received the requested compensation or reimbursement from any other source.

Compensation: Hours before April 1, 2023: _____ x Hourly Rate \$75 = _____

Hours after April 1, 2023: _____ x Hourly Rate \$158 = _____

TOTAL FEE REQUEST: _____

Expenses:

Travel: _____

Copying/Printing: _____

Other: _____

TOTAL EXPENSES REQUEST: _____

TOTAL FEE AND EXPENSES REQUEST: _____

Signature: _____

Date: _____