

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 statement (see Court of Appeals Rules of Practice § 500.9) if it has not already been served and filed.

The Clerk's office will obtain the original file from the clerk of the court of original instance or other custodian and upon request will provide the file for your use. Assigned counsel shall 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. Assigned counsel shall comply with section 500.5 of the Court of Appeals Rules of Practice when filing sealed material.

Papers filed in appeals in criminal cases involving parties without funds shall comply in form and content with the Court's Rules of Practice. 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 OF COMPLIANCE WITH THE RULES OF THE COURT, AND IN NO CASE WILL THE COURT APPROVE REIMBURSEMENT OF REPRODUCTION COSTS AND DISBURSEMENTS TO ASSIGNED COUNSEL IN EXCESS OF \$350 WITHOUT THE PRIOR WRITTEN CONSENT OF THE CLERK OR DEPUTY CLERK OF THE COURT.**

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 the matter has been decided), you should present to the Court, through the Clerk's office, a request for the fixing of your fee and the allowance of your disbursements. This request should be by formal affirmation setting forth the following:

- (A) The nature of the case - e.g., whether the appeal here was from a judgment of conviction of felony or misdemeanor;
- (B) A brief history of your association with the case -- e.g., whether you represented defendant in the court(s) below and, if so, whether you were privately retained or were assigned in said court(s); if assigned, indicate whether you received a fee and, if so, from what governmental agency; give date of assignment in this Court and date this Court decided the appeal;
- (C) 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 warrant a fee award in excess of the authorized maximum, you must support such claim by an award statement in your affirmation (the fact that an extraordinary amount of time was devoted to the appeal does not alone qualify one for an excess fee);
- (D) A description and itemization of disbursements necessarily incurred on the assignment, including cost of reproducing your brief and appendix; copies of bills should be annexed to the affirmation, as well as a copy of the Clerk's or Deputy Clerk's authorization if reproduction costs total more than \$350. Note that only reasonable, minimum printing rates for your area will be allowed. Various other disbursements such as transportation, board, meals and telephone calls may be allowed; stenographic services and other overhead items, however, are generally considered covered by the fee awarded.

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