

MEMORANDUM

TO: Members of the Local Bar of the Twenty-Third Judicial Circuit

FROM: Indigent Defense Advisory Board

DATE: July 16, 2012

SUBJECT: *Indigent Representation/Attorney Fee Declarations*

Indigent Representation:

An Indigent Defense Advisory Board (IDAB) was statutorily created for every judicial circuit in Alabama to select a method to address indigent representation (court-appointed, public defender, contract system, or a combination thereof) which must be made every year in writing by October 1st to the Office of Indigent Defense in Montgomery. Members of the Board are the Presiding Judge, President of the Bar Association and three members of the Bar Association selected by the Bar Commissioners of this Circuit (Jerry Barclay, John Brinkley and Patrick Tuten). This circuit opted to continue to use the court-appointed system. The IDAB created the Indigent Representation Administrative Committee (IRAC) which developed an application process for appointments to three types of cases: Criminal, Dependency and Appeals. (A copy of the plans and the applications are attached hereto.)

Applications were completed by interested attorneys and reviewed by the IRAC. Applicants for criminal cases were placed in tiers based on knowledge or experience. Tier A attorneys will receive all types of felonies (Class A, B and C) and misdemeanors and Tier B attorneys will receive (Class B and C) felonies and misdemeanors. Since some of you will ponder tier placement, please note that some attorneys specifically requested Tier B only. (Attached hereto are the two criminal lists, the dependency list and the appellate list.)

These lists referenced above will be maintained in the Court Administrator's Office. The Court Administrator's Office will handle the bulk of the appointments on a rotating basis. The lists have been merged to facilitate rotation and an approved procedure is in place. The Affidavit of Indigency will be completed, reviewed by a judge and sent to the court administrator. Those qualified persons will receive their appointed lawyer before leaving the court house. Trial judges will continue to have the discretion to make appointments in open court and will do so from the lists to promote judicial economy or prevent further delay.

The judges and the IRAC met on Thursday, June 27, 2012. The panels were accepted and approved by those in attendance. The tiered system will go into effect on Monday, July 23, 2012. Those interested in receiving appointments shall apply using the application or renew their desire before December 1st annually. Interest must be made in writing through application or recertification and will be reviewed during December of each year. The new lists will be provided to the court administrator each January and at other times throughout the year as needed.

The criminal tier placements were decided by a majority vote of the committee and approved by the judges within the circuit. Grievances or appeals regarding tier placement are to be addressed with the Presiding Circuit Court Judge only. The Presiding Judge will call the committee together to be addressed by the aggrieved party. All decisions made by the committee are private and its discussion confidential.

Attorney Fee Declaration:

Fee declarations for court-appointed cases should be submitted promptly so that the costs can be assessed to the specific case number or defendant. Cases appointed *after* June 14, 2011, must be received by the Office of Indigent Services (OIDS) within ninety (90) days of resolution. Cases appointed *before* June 14, 2011 are not subject to the ninety (90) rule but must be submitted within a reasonable time. A law suit was filed in Montgomery County ruling favorably for attorneys who submitted fee declarations beyond ninety (90) days on cases appointed before June 14, 2011. (A copy of this opinion is attached hereto.) Judges within this circuit are receiving fee declarations dating back eight (8) years. While the judges and IRAC find this unacceptable, OIDS will be the ultimate arbiter of the payment of unnecessarily delayed fee declarations. Defendants, who ultimately pay the court-appointed fee, are unaware of the indebtedness until the declaration is submitted and, in fairness to them, your declaration should be submitted as soon as possible.

