



WAYNE COUNTY CRIMINAL DEFENSE BAR ASSOCIATION

For information contact:

Tim Meloche
Delta Communications
(248) 594-9430
meloche@earthlink.net

NOVEMBER 11, 2002 – FOR IMMEDIATE RELEASE

Lawsuit asks Michigan Supreme Court to take superintending control of Wayne County Circuit Court

W.C.C.D.B.A. highlights need for reform of indigent defense across Michigan

Washington, D.C.- The principal legal groups that represent poor defendants in the Detroit area are suing the Chief Judges of the Wayne County Circuit Court to seek adequate compensation for their services.

"The judges and officials in Wayne County are dooming their most vulnerable citizens to lawyers who are overburdened and underpaid," said Frank Eaman, an attorney in Detroit and counsel for the plaintiffs. "Defense lawyers lose money taking these cases, and the consequences for clients can be devastating. The amount of justice a person gets in Wayne County shouldn't depend on the amount of money a person has."

The Wayne County Criminal Defense Bar Association (WCCDBA) and the Criminal Defense Attorneys of Michigan (CDAM) filed the suit in the Michigan Supreme Court through their *pro bono* counsel at the Chicago office of Kirkland & Ellis and the Detroit office of Bellanca, Beattie & DeLisle. Members of the two bar associations represent criminal defendants in Wayne County who cannot afford to hire attorneys. CDAM is a state affiliate of the National Association of Criminal Defense Lawyers (NACDL).

The groups argue that the current legal fees dispensed by the state -- cut yet another 10 percent last year -- make it impossible for most lawyers to even cover their office expenses, let alone make a living. Michigan law requires "reasonable compensation for the services performed" by appointed counsel, yet Wayne County pays its court-appointed lawyers among the lowest rates in the country. In some cases, attorneys are paid less now than they were under the fee schedule followed in 1967. Moreover, Wayne County allocates twice as much funding for the prosecution as it does for defense services every year.

"While judges and prosecutors have received raises on a regular basis, appointed defense lawyers are still working at rates set in the 1980s or before," said Matt Evans, president of the WCCDBA. "It is unreasonable to expect the defense bar to subsidize the county's responsibility for providing constitutionally-required indigent defense services. It's the same problem defense attorneys face in dozens of other counties all over Michigan."

Wayne County currently uses an event-based fee schedule, meaning that lawyers are paid set amounts for certain tasks, regardless of the amount of hours actually spent completing those tasks. For example, the fee schedule provides a maximum of \$250 for the investigation and preparation of cases involving a potential life sentence, which can require hundreds of hours of investigation and preparation. According to the lawsuit, lawyers do not have adequate resources to meet with their clients, conduct investigations, or file legal motions. Instead, the low rates provide an incentive for lawyers to accept a high number of cases and encourage guilty pleas.

"Our system of justice works only if all parties are represented by competent counsel," said Martin Pinales, NACDL's treasurer, who has assisted in negotiations with the defendant-judges over the past few months. "If you are arrested in Wayne County and cannot afford to hire an attorney, your appointed lawyer must choose between spending time on your case and paying the bills. This creates an unreasonable conflict for the attorney, threatens the client's right to meaningful representation, and undermines the fairness and reliability of our justice system."

Wayne County's justice system has been the subject of recent publicity with the exoneration of Eddie Joe Lloyd, the 110th person cleared by DNA evidence in the United States, who was released from prison on August 26, 2002. "Competent counsel is the most important line of defense against wrongful convictions," said Martin Tieber, president of CDAM. "The Wayne County criminal justice system failed Eddie Joe Lloyd, who spent more than 17 years in prison for a crime he did not commit. An experienced lawyer with adequate resources would have exposed the holes in the prosecution's case. Instead, an innocent man went to prison, and the real perpetrator has never been brought to justice."

Michigan is one of only four states where counties bear the entire responsibility for funding trial-level indigent defense services. Without any assistance from the state, Wayne County pays fees to court-appointed lawyers that are the lowest among the 25 largest counties in the country.

"Kirkland & Ellis is concerned about the state of justice in Michigan," said Michael Slade, an attorney at the firm. "It is our duty, as officers of the court and responsible members of the bar, to help assure that the indigent defense system in Detroit -- as elsewhere -- satisfies the demands of justice, state law, and the federal constitution. Every American is entitled to adequate counsel, and appointed attorneys are entitled to compensation sufficient to do the job well."

The lawsuit asks the Michigan Supreme Court to authorize payment of appointed counsel fees at the presumptively reasonable rate of \$90 an hour, or, in the alternative, to implement a fee schedule recently proposed by the WCCDBA or one proposed in 1982 by Judge Clarice Jobes, adjusted for inflation.

Media Contacts

Tim Meloche

Delta Communications

(248) 594-9430 / (248) 227-2449 (mobile)

meloche@earthlink.net

Matt Evans

Wayne County Criminal Defense Bar Association

(734) 775-6659

CrimLawPro@cs.com

Frank Eaman

Bellanca Beattie & DeLisle

(313) 882-1100

feaman@bellanca.com

Michael Slade

Kirkland & Ellis

(312) 861-3348

michael_slade@chicago.kirkland.com

Martin Tieber

Criminal Defense Attorneys of Michigan

(517) 372-0676

fmtieber@reynoldslawfirm.com

Kate Jones

National Association of Criminal Defense Lawyers

(202) 872-8600 ext. 224

kate@nacdl.org

Martin Pinales

Cincinnati, Ohio

(513) 721-4876.