

From: Christopher Wickman
To: [Comments](#)
Subject: Comments on Standard 7
Date: Monday, May 01, 2017 11:02:57 AM

Hello,

I appreciate all your work on the standards. They are difficult to try to come up with and you will always have someone upset with you so I appreciate your willingness to take the brunt of such.

That being said, I did have feedback to Standard 7. I think that minimum standards for level of representation is great, but I think that the trial expectations may be too vigorous.

Find below my thoughts on such summarily:

- Most importantly, **the decision to go to trial is a CLIENT decision** not left to the attorney. I've made "go to trial" recommendations that were ignored and prepped more than ten felony trials that did not end up going to trial (I convinced the prosecution to dismiss a few after deals were off the table, others were dismissed day of, I got sweetheart plea deals for my clients last second that they wanted to take, etc.) I went to my law school particularly because of their trial advocacy program and I love trial, but I'd fall short of many of the trial requirements even though the general trial division judges in my county (Ingham County) have approved me for capital cases. The reason I suspect is because I am frequently filing motions/running prelims and that I am willing and able to go to trial on every case if that is what my client wants. I have severely gone to bat for more than a few clients and won in motion practice, at prelim, and negotiated unbelievable plea deals and all of that would be ignored because I did not push a few more clients into trial for my own benefit. I have never once suggested we take a plea because I did not want to go to trial.

- The focus on screening is all on trials without a focus on the rest of the system at all. Anyone can go to trial, but so many attorneys are afraid of real motion practice.

- Trial is the ultimate hearing of a case, but most cases do not go to trial and it may not benefit our clients to go to trial.

- I feel it conflicts with what minimum standard 8 may include - financial incentives and disincentives. I do what is best for my client completely without regard to how it affects me financially on the case. I figure out how to bill it after the case concludes. Some people would be more likely to take a case to trial because they need it to get promoted and skew that way. Ven Johnson, formerly of Geoffrey Fieger's firm, has stated this was one of his reason for leaving Fieger's firm - he was required to take X number of cases to trial each year for marketing, publicity, and possible greater financial award. This is NOT an attorney decision, but the requirements of promotion could lead to attorneys being influenced in the case.

- You're going to end up really short on quality attorneys higher up on the severity list unless compensation skyrockets - unlikely - especially in high-competition counties.

Although it is tougher to quantify, I would recommend moving away from a "trial only" view of promotion. For what it's worth, I think that Ingham County has a decent set of items to look at for promotion. They are:

At a minimum, requests for reclassification will be judged on counsel's:

A. Knowledge of Law

1. Substantive
 2. Evidentiary
 3. Understanding of court procedures
- B. Case Readiness
1. Attention to client's needs
 2. Document preparation
 3. Motions anticipated and timely scheduled
 4. Preparation of defendant to clearly articulate factual basis for plea
 5. Accurate statement of the full basis for plea agreement
- C. Personal Representation
1. Attitude
 2. Cooperation
 1. Promptness
 2. Confidence
 3. Credibility
 4. Reasonableness of voucher billing
 5. Judgment
 6. Integrity
- D. Any other factors deemed to be relevant by the General Trial Division bench

Obviously there are some problems with this schema for promotion, but I think it has a better focus on skills rather than trials.

I'm happy to speak with anyone at length regarding my comments if such is desired. Thanks again for all your work on this tough job.

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Sincerely,
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Temple University, J.D. 2011
Michigan State University, B.A 2008

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