

DO's and DON'T's Guide for Judges

DO: Require a Release

This item is important enough to warrant its own page.

In a regular trial setting judges call all the shots and lawyers must comply. In addition, even in the event a lawyer were to fail to do something (or almost fail to meet a deadline), either by forgetting, having it fall through the cracks, or for some other reason, such failure or omission would be quickly noted and remedied by the many other actors who are built into the trial system. Whether it be opposing counsel, the clerk, or the judge, there are many who are “bird-dogging” an attorney to complete various actions. Without really recognizing all the support mechanisms in place to assure accountability of lawyers in a trial setting, it is understandable that a judge might assume that a lawyer would follow up and contact the Lawyer Assistance Program after being told to do so by a judge. Not so.

In the case of addicted lawyers, more often than not, when a judge tells a lawyer to contact the Lawyer Assistance Program, the lawyer does call LAP. And that is all the lawyer does. Often a lawyer will call LAP and provide some details of the event that lead to the call, but is usually unwilling to meet in person, discuss any form of counseling or treatment plan or sign a release allowing LAP to speak to the judge. When later asked by the judge whether the lawyer contacted the Lawyer Assistance Program, the lawyer can honestly report in the affirmative, leading the judge to mistakenly believe the lawyer is working with LAP in an ongoing capacity and getting the help needed. Often judges are dismayed when 6 to 12 months later, the lawyer's troubling behavior has escalated.

It is imperative for accountability that a lawyer sign a release with LAP allowing LAP to speak with the judge. It is only through a signed release that a judge will be informed 1) whether the lawyer has made contact, 2) whether the lawyer is meeting on-going clinical recommendations, and 3) whether the lawyer is complying with terms of a recovery contract should one be necessary. Often, it is ONLY BECAUSE the judge is being informed that a lawyer will actually work with LAP and follow the clinical recommendations.

LAP has a practice of ALWAYS asking any attorney we work with who was referred by a judge to sign a release allowing us to confirm with the judge the items listed above. **You can be assured, if you have asked a lawyer to contact LAP and you do not hear from LAP, that attorney has either not made contact or has made one contact and refused to sign a release and is not working with LAP.**

No confirmation from LAP = lawyer is not working with LAP.

A sample copy of the LAP release is attached.