

Practice Standards

December, 2012

Section VI, Qualifications and Duties of Counsel

10. Preparing, Filing, and Arguing Pretrial Motions:

A. Motions should be filed in a timely manner, should comport with the formal requirements of the court rules, and should succinctly inform the court of the authority relied upon. In filing a pretrial motion, counsel should be aware of the effect it might have upon the defendant's speedy trial rights.

B. When a hearing on a motion requires the taking of evidence, counsel's preparation for the evidentiary hearing should include:

- a. investigation, discovery, and research relevant to the claim advanced;
- b. the subpoenaing of all helpful evidence and the subpoenaing and preparation of all helpful witnesses;
- c. full understanding of the burdens of proof, evidentiary principles, and trial court procedures applying to the hearing, including the benefits and potential consequences of having the client testify; and
- d. familiarity with all applicable procedures for obtaining evidentiary hearings prior to trial.

C. In every case, counsel should examine whether it is appropriate to file a motion to suppress evidence or statements.

D. In every case that proceeds to trial, counsel should file timely and appropriate motions in limine to exclude any improper evidence or prosecutorial practices.