

## **Practice Standards**

December, 2012

### **Section VI, Qualifications and Duties of Counsel**

#### **28. A Motion for a New Trial**

A. Counsel should be familiar with the procedures available to request a new trial including the time period for filing such a motion, the effect it has upon the time to file a notice of appeal, and the grounds that can be raised.

B. When a judgment of guilty has been entered against the client after trial, counsel should consider whether it is appropriate to file a motion for a new trial with the trial court. In deciding whether to file such a motion, the factors counsel should consider include:

- a. The likelihood of success of the motion, given the nature of the error or errors that can be raised; and,
- b. The effect that such a motion might have upon the defendant's appellate rights, including whether the filing of such a motion is necessary to, or will assist in, preserving the defendant's right to raise on appeal the issues that might be raised in the new trial motion.