

CJA Compensation Policy Manual 2009

CJA COMPENSATION POLICY MANUAL U.S. DISTRICT COURT, NORTHERN DISTRICT OF WEST VIRGINIA

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PART I – INTRODUCTION

This compensation policy manual has been prepared to inform Criminal Justice Act (CJA) panel attorneys of the Court's procedures and provide an understanding of the voucher review process. It also sets forth general guidance on reimbursement of expenses and compensable time.

Answers to most questions concerning appointment under the Criminal Justice Act can generally be found at (1) 18 U.S.C. §3006A; (2) 21U.S.C. §848 (q)(4) et. seq.; (3) the *Guide to Judiciary Policy & Procedures*, Vol. VII, Appointment of Counsel in Criminal Cases; (4) the Plan of the United States Court of Appeals for the Fourth Circuit in Implementation of the Criminal Justice Act; and (5) the Amended Plan for Implementing Criminal Justice Act from the Northern District of West Virginia.

These reference sources are available on-line through the Federal Public Defender Office for the Northern District of West Virginia at its website at <http://wvn.fd.org> and from the Office of Defender Services at www.fd.org.

If the manual or these references fail to provide you with the desired clarification or direction, please contact Lisa A. Coleman, the CJA Panel Administrator with the Federal Public Defender Office, at (304) 622-3823.

PART II - APPOINTMENT OF PANEL ATTORNEYS AND ISSUANCE OF INITIAL VOUCHER

§ 2.1 Appointment

(a) Origination of Voucher and Appointment Order.

Upon notification by the Court that a defendant is indigent and therefore is eligible for appointed counsel under the Criminal Justice Act, 18 U.S.C. §3006A, the Court forwards the defendant's name, charging document, and next court appearance to the CJA Panel Administrator. Next, the United States Attorneys Office is contacted in regard to any potential conflicts of interest. If the Federal Public Defender Office cannot accept the case, a CJA panel attorney is chosen in a rotational method from the location of where the charges were filed (Clarksburg, Wheeling, Martinsburg or Elkins). The CJA Panel Administrator prepares the appointment order and forwards it to the judicial officer for signature. A CJA 20 form or CJA 30 form (Death Penalty) is then prepared using in-office software and sent to the appointed attorney for completion.

(b) Attorney's Copy

The appointed attorney's copy becomes the payment voucher for the attorney's compensable fees and expenses. If the case will involve interim payments, the appointed attorney should make copies of the initial signed voucher for future use.

(c) Notification and Filing of Appointment Order

It is generally the responsibility of the CJA Panel Administrator to notify CJA panel attorneys of the appointment and the first appearance date. If the case involves a grand jury target, a hearing is not usually set at the time when counsel is requested, and counsel should contact the United States Attorney for more information.

The appointment order, once signed by the Court, is later filed by the Clerk's Office on its Electronic Court Filing (ECF) system, and the CJA panel attorney will thereafter receive all case related information from the Clerk's Office via ECF.

§ 2.2 Processing of Vouchers

(a) Voucher Submission

The appointed attorney submits a completed CJA voucher with all necessary attachments to the CJA Panel Administrator after a judgment has entered, the case has been adjudicated to conclusion or the Court has previously authorized interim payments.

The CJA Panel Administrator and the Federal Public Defender review the payment voucher for mathematical accuracy and apparent reasonableness and then forward the voucher to the Court for judicial approval of compensation and expense reimbursement.

If the voucher amount requested exceeds the maximum allowed under 18 U.S.C. §3006A, the approved voucher (district court level) is then forwarded to the Chief Judge of the U.S. Court of Appeals for the Fourth Circuit (or a designated circuit judge) for further approval.

(b) Payment Order

Upon approval by the presiding judge (and Fourth Circuit if necessary), the payment voucher is returned to the CJA Panel Administrator indicating approval for payment. The Panel Administrator will input the CJA voucher into an automated payment accounting system. The Federal Public Defender will thereafter review the input for accuracy and provide second-level approval for the payment via the automated system. A check for case related compensation and

expenses will thereafter issue to the CJA panel attorney by U.S. Mail.

The CJA Panel Administrator retains custody of the original paper voucher that documents the electronic process. The appointed attorney will be provided with a copy of the approved voucher only if adjustments or reductions have been made in the auditing or approval process.

[NOTE: The automated system is connected to the Administrative Office of the United States Courts in Washington, D.C. for final certification of the voucher and disbursement of the payment check to appointed counsel. The entire process should normally be completed within sixty (60) days from receipt of payment voucher by the CJA Panel Administrator.]

§ 2.3 Confidentiality of CJA, Documents

(a) Non-disclosure

All CJA documentation is deemed confidential and is maintained by the CJA Panel Administrator in such fashion whether or not a previous sealing order has been entered. Such documentation includes the vouchers (CJA forms 20, 21, 24, 30, and 31), supporting documentation and attachments, budget plans, funding requests and authorization, interim payment orders, travel requests and orders in criminal cases.

The CJA 23 (Defendant's Financial Affidavit) will be maintained in the Clerk's office files and is normally filed under seal.

All CJA documents maintained by the Clerk's Office and the CJA Panel Administrator will not be disclosed to the public, except as provided by statute, the *Guidelines*, or by order of the court.

PART III - ATTORNEYS' COMPENSATION AND RECORD KEEPING

§ 3.1 *In General*

(a) Least Expensive Alternative

Appointed attorneys are expected to assist the court in finding the least expensive reasonable method to provide high quality legal and other services to indigent defendants.

Whenever appropriate, without compromising the quality of the work, the services that are performed should be performed by the least expensive, competent staff member authorized

by the court and capable of performing the work. For example, lawyers should not expend time for court filings, service of papers, file organization, photocopying, mailing, faxing, etc. Attorneys will not be compensated for secretarial tasks.

(b) Attorney Conferences

If an appointed attorney associates another attorney within the same firm on an appointed case, the attorneys will not be compensated for time conferencing with each other. If two attorneys are appointed, conferencing will be approved for limited and reasonable expenditures of time.

(c) Waiting Time

Reasonable waiting-time will be compensated; however, the court will not compensate an appointed attorney for foreseeable waiting time during which the appointed attorney could have been working on other matters unless justification is provided explaining why the charge is being incurred.

Reasonable “review/preparation” time before a meeting or appearance is an appropriate charge, even though such “review/preparation” is conducted while waiting.

When the appointed attorney is aware that waiting time may be substantial (*e.g.*, waiting for conferences with the client or the return of a jury) the appointed attorney should have other work to occupy the time. Compensation may **NOT** be claimed for waiting time where work on other matters is performed during the same time period.

(d) Incremental Reporting

Time for work performed by attorneys must be reported in tenths of an hour. Vouchers submitted that record time in quarter hour segments will be returned by the CJA Panel Administrator for re-submission in tenth of an hour segments.

§ 3.2 *Records*

(a) Maintaining Time Records

Attorneys must maintain contemporaneous time and attendance records for all work performed, including work performed by paraprofessional, as well as expense records.

(b) Receipts/Invoices

Whenever a copy of a receipt, invoice or similar document is submitted in support of a voucher, the appointed attorney must retain the original document in the attorney's files and produce the original upon request of the court or CJA Panel Administrator.

(c) Retention.

These records, which may be subject to audit, must be retained for three (3) years after approval of the final voucher for an appointment.

§ 3.3 *Worksheets*

(a) Format

In support of CJA Forms 20 and 30, appointed attorneys must submit worksheets in the same format as the worksheets contained in Appendices 1-5 of these guidelines to the extent applicable. *See* Appendix 6 for Guidelines/Instructions on completing these worksheets.

Interactive worksheets are available in WordPerfect® and Adobe Acrobat® portable document format ("PDF") on the Federal Public Defender website at <http://wvn.fd.org>.

(b) Legibility.

Although they need not be typed, worksheets must be legible and detail the tasks performed. In addition, the attorney shall insure that all tasks are assigned to the categories specified on the voucher.

(c) Return of Vouchers.

Worksheets or other support statements in any other format are not acceptable and will be returned by the CJA Panel Administrator with the voucher for re-submission.

§ 3.4 *Detailed Entries.*

(a) Individual Task Entries.

Each entry must reflect discrete individual tasks and not simply list multiple tasks performed in a specified block of time. These tasks should be described with sufficient detail. Avoid generalities such as "Guideline Research" or "Trial Preparation."

(b) In-Court/Out-of-Court.

In-Court time includes only that time actually spent in-court from not more than five (5) minutes prior to the scheduled time for commencement of the court hearing or trial as reflected on the court calendar until not more than five (5) minutes after the hearing or trial is adjourned as reflected on the court minutes of the proceeding. Short or customary recesses may be included in the in-court time, but time after adjournment for lunch or the day, are not compensable unless otherwise compensable as out-of-court time.

Time spent in-court awaiting return of a jury may be claimed as in-court time to the extent, the time is reasonably necessary.

Time spent in matters, even if connected to a hearing or trial, that is not properly included as in-court time, *e.g.*, interviewing witnesses, consulting with the client, opposing or co-counsel, must be reported as out-of-court time.

(c) Detail.

Information should be provided in sufficient detail to permit meaningful review, without violation of the canons of ethics or disclosure of attorney work product including, but not limited to:

(1) Identifying witnesses interviewed (if in the opinion of the appointed attorney it is inappropriate to provide the name of a witness, identification by type of witness, *e.g.*, "guilty phase witness #1" is sufficient) and topic of interview (a simple description of the general topic of discussion, not specific details, is required);

(2) Identifying persons involved in telephone conversation or conferences and topics discussed (a simple description of the general topic of discussion, not specific details, is required);

(3) Specific issues or topics research; and

(4) Identification of documents reviewed or prepared, including transcripts and pleadings drafted or reviewed, by title and pages numbers; and, if necessary for an understanding of the task, explanation of its relevance to the federal proceedings.

(d) Legal Research Time.

Compensation will be paid for reasonable and necessary research related to the case.

Each CJA panel attorney is expected to have a basic knowledge of federal criminal law and procedure and time spent becoming familiar with or reviewing such items as the Federal Rules of Criminal Procedure, Local Criminal Rules and Federal Sentencing Guidelines is not ordinarily compensable.

§ 3.5 *Recycling*

(A) Compensation for Original Work Only.

CJA panel attorneys should use pre-existing resources (*e.g.* briefs and pleadings prepared in similar cases previously handled) to the extent practical to minimize charges. Appointed attorneys may claim compensation only for work that is originally prepared for the case in which the voucher is submitted.

(b) Adaptation Time.

Compensation for time spent in adapting prior work product to the case or matter in which the voucher is submitted may be properly claimed.

§ 3.6 *Maximum Amounts.*

(a) Amounts.

Maximum payment amounts, by category, are contained in Appendix 7.

(b) Approval of Excess Amounts.

Compensation exceeding the statutory maximum amounts may be authorized in cases that are complex or extended where there is a declaration from the appointed attorney justifying the payment; certification by the trial judge authorizing the payment; and approval by the Chief Judge of the U.S. Court of Appeals for the Fourth Circuit (or a circuit judge delegated that responsibility).

Vouchers claiming amounts exceeding the statutory maximum will be returned by the CJA Panel Administrator if not accompanied by the required declaration.

The appointed attorney should use a CJA 26 (Appendix 8) for this purpose. This form as well can be downloaded from the Defender website or obtained from the CJA Panel Administrator.

Additional declarations are not required in cases where court approval of interim payments based on the complexity of the case has been previously obtained.

§ 3.7 *Multiple Defendant, Indictments or Counts*

(a) Cross-Reference of Vouchers.

If the appointed attorney has submitted, or will submit, CJA vouchers for more than one case or defendant in the same case for the same time period, the voucher for each case or defendant must include an attachment stating the name of the defendant and the case number of the other case.

(b) Multiple Indictments/Counts.

When a defendant is charged in one indictment with severable counts, one voucher should be submitted and one maximum applied under the Act, whether or not the counts are severed for trial.

When a defendant is charged in two or more indictments (other than a superseding indictment or information), a separate voucher should be submitted, and a separate maximum applied under the Act for each indictment, whether or not the indictments are consolidated for trial.

When a single panel attorney is appointed to represent multiple defendants, separate vouchers should be submitted, and a separate maximum applied under the Act, for each defendant represented.

(c) Time Allocation

Time spent on multiple cases or indictments that require overlapping services (*e.g.* research, attendance at court, travel to visit clients, etc.) should be appropriately allocated among the cases or indictments and not charged in full to each case.

§ 3.8 *Use of Paraprofessionals.*

(a) Use of Paraprofessionals.

Use of paraprofessionals is encouraged but must be pre-approved if the expenditure will exceed the maximum amount authorized to be expended without court approval. [See Appendix 10]

With prior approval of the court, paraprofessionals, whether independent or employed in the same firm as appointed counsel, may perform case preparation services distinct from normal clerical support services [See §7.3 and §10.1 for billing and the procedure for obtaining prior court approval.]

(b) Aggregate Time.

By accepting appointment pursuant to the CJA, the appointed attorney is obligated to ensure the aggregate hours expended by the appointed attorney and paraprofessional are reasonable. The coordination of efforts between members of the same firm authorized to work on a case is the responsibility of the firm and not a reimbursable cost. If an appointed attorney associates with another attorney, or uses the services of a paraprofessional within the same firm on an appointed case, the appointed attorney, associated attorney and paraprofessional will not be compensated for time spent with each other discussing the case.

PART IV - CJA 20: NON-CAPITAL CASES

§ 4.1 *Forms*

Instructions for completing the CJA 20 vouchers are contained in Appendix 6.

Attach a copy of the order signed by the Court appointing counsel to the case specified on the submitted CJA 20.

Blank interactive CJA 20 Forms and supporting worksheets in WordPerfect® or Adobe Acrobat® may be downloaded from the Federal Public Defender's website for use in preparing vouchers for payment at

§ 4.2 *Standard Cases*

For cases that are not complex or extended, the CJA 20 must be submitted not later than forty-five (45) days after the final disposition of the case, unless good cause is shown.

§ 4.3 *Extended or Complex Cases*

Extended or complex cases that will exceed the statutory maximum outlined in subsections (d)(2) or (e)(3) of the Criminal Justice Act, 18 U.S.C. §3006A, require the use of a detailed memorandum justifying such compensation. Guidance for preparation of such a memorandum can be found at Appendix 12.

The process for approval of amounts exceeding the statutory maximum at the district court and court of appeals level is outlined in a Memorandum issued by the Chief Judge of the Fourth Circuit Court of Appeals, dated August 14, 2007. See: Appendix 16.

For amounts between \$7,800 and \$11,000, the district court may submit a form (Appendix 16) certifying the amount requested is reasonable and necessary for fair compensation. For amounts exceeding \$11,000, the district court must submit a letter or memo detailing similar justification.

§ 4.4 *Interim Payments.*

Generally authorization to submit interim vouchers will be limited to situations where compensation is anticipated to be in an amount in excess of the maximum allowed under provisions of subsections (d)(2) or (e)(3) of the Criminal Justice Act, 18 U.S.C. §3006A. Authorization to submit interim vouchers must be obtained from the United States district and circuit courts prior to the submission and/or processing of any interim vouchers. The CJA Payee (an attorney or expert services provider) requesting authorization to submit interim vouchers must make a showing that because of the complexity and/or extended nature of the case it would be a financial hardship to go without compensation, thereby making the authorization or interim vouchers necessary and appropriate. This showing should be in letter or memo form addressed to the United States District Court Judge or Magistrate and a copy should be submitted to the CJA Panel Administrator

Unless otherwise provided in the order authorizing interim payments, interim payment vouchers are not be submitted at intervals of less than 30 days or in amount of less than \$1,000.00.

§ 4.5 *Supplemental Claims.*

If a supplemental claim for services rendered after the case is completed is needed, the appointed attorney may do so by completing an additional voucher designated as a “Supplemental to Final” voucher. Explanation of why this claim was not presented in the original voucher shall be included.

PART V - CJA 30: CAPITAL CASES

Application of the practices and procedures in this manual in capital cases is subject to the policy of the U.S. Court of Appeals for the Fourth Circuit and must be reviewed at the outset of the case. Budgeting for a capital case requires coordination with the district court and court of appeals, and authorization for both attorney hours and case-related expenses. If you are

involved in a capital case, please contact the Federal Public Defender office for detailed information.

PART VI - VOUCHER REVIEW

§6.1 *In General.*

Voucher processing requires the review and analysis of vouchers submitted by CJA appointed attorneys to determine that the services rendered and expenses incurred are in accordance with the statutes, rules, policies, requirements, practices, and procedures governing CJA appointed counsel.

Vouchers are processed, reviewed and audited by the CJA Panel Administrator and the Federal Public Defender before being forwarded and reviewed by the presiding judge. Voucher review by the presiding judge includes an assessment of the reasonableness of the fees and expenses incurred for the activity or task involved.

§ 6.2 *Review by CJA Panel Administrator and Federal Public Defender*

All vouchers are initially reviewed by the CJA Panel Administrator for mathematical errors and compliance with the requirements or applicable rules, CJA guidelines, and this policy manual.

The Federal Public Defender additionally reviews the vouchers for mathematical accuracy and apparent reasonableness.

Unless there are unusual circumstances or the CJA Panel Administrator is absent, the voucher will either be returned to the appointed attorney for correction or forwarded to the appropriate judicial officer within five (5) business days of the date the voucher is submitted by the appointed attorney.

The CJA Panel Administrator will return to the appointed attorney for correction and re-submission any voucher, that does not comply with the applicable requirements. Any voucher returned by the CJA Panel Administrator will indicate those items that are not in compliance with the requirements of this policy manual.

§ 6.3 *Approval by the Court.*

(a) General.

In the absence of unusual circumstance, including, but not limited to, proceedings under subsection §6.3(b) or §6.4 the court will act on all vouchers within thirty (30) days of the date the voucher is received. Following Court approval (for all cases below the statutory maximum), the voucher will be returned to the Federal Public Defender Office for processing and payment.

(b) Reductions.

It is the policy of the Court that notice will be provided to the attorney beforehand in the event the district judge intends to reduce or propose a reduction in the amount claimed. However, notice will not be given if the reduction is based on a computational error or use of an out-of-date hourly or expense rate.

At the discretion of the judge, the notice and statements of reasons for the reduction may be given in writing or be made on the record in court after notice to the appointed attorney. In the event notice is given in writing, within ten (10) days thereafter, the appointed attorney must submit to the Court a written response. Such response shall include either a statement the appointed attorney disagrees with the proposed reduction and reasons why reduction is not appropriate; or a statement accepting the proposed reduction.

A failure to provide a timely response will be deemed an acceptance of the intended or proposed reduction.

Nothing contained in this subsection may be construed as prohibiting the judge from communicating informally with the attorney about questions or concerns in person, telephonically, or electronically, *e.g.* by e-mail or facsimile, as deemed appropriate or necessary by the judge.

(c) Approval of Amounts in Excess of Statutory Maximums.

If payment is verified in excess of the statutory maximum, the voucher is sent to the Chief Judge of the U.S. Court of Appeals for the Fourth Circuit (or designated circuit judge) for review and final approval.

§ 6.4 Procedure for Submitting Vouchers over the Statutory maximum

The Chief Judge of the Fourth Circuit Court of Appeals issued a memorandum to district court judges listing applicable CJA guidelines for payment in those cases that exceed the statutory maximum. See Appendix 17. District court judges must submit a form for those cases that exceed the \$7,800 limit but are less than \$11,000, certifying the payment requested necessary and reasonable for fair compensation. For all cases that request more than \$11,000,

the district court judges must draft and include an individualized memorandum that certifies the case was extended or complex, and that payment in this amount is needed for fair compensation for the costs of representation.

The Court will be looking for explicit detail from the panel attorneys to justify payments requested in excess of the statutory maximum. This information will also assist the district court judges who must draft the individualized memorandum for each case.

PART VII - REIMBURSABLE EXPENSES

§ 7.1 *General*

Reimbursable out-of-pocket expenses incurred in connection with CJA representation may be claimed on the CJA 20 or CJA 30 voucher. Compensation for necessary and reasonable expenses is in addition to the fee maximum.

The appointed attorney must negotiate the lowest reasonable rates with service providers retained to provide services in connection with the case.

The maximum amount that may be expended without prior approval and the approval levels for excess amounts is set forth in Appendix 7. See §10.1 for the procedure for obtaining prior court approval.

§ 7.2 *Supporting Documentation.*

(a) Itemization/Documentation.

All expenses should be completely itemized and documented by copies of receipts, invoices, and office records that verify costs incurred. Receipts are required for all expenses more than \$50.00 and encouraged for all expenses less than \$50.00. ***Notwithstanding this policy, receipts are always required for the following:***

- ★ Outside copying regardless of the amounts;
- ★ Subsistence expenses, except tips, as defined in §9.3(a)(b), *e.g.* lodging, phone calls, meals;
- ★ Non-subsistence travel expenses, other than mileage, more than \$25.00; and
- ★ Premium delivery and messenger services, *e.g.* Federal Express, UPS, etc.

Reimbursements will be disallowed for expenses that are not itemized or for which insufficient documentation is provided.

(b) Submission of Receipts

Legible copies of receipts are to be taped to or reproduced on white 8½" x 11" paper in chronological order as itemized on the worksheet. More than one receipt may be attached to or reproduced on each sheet of paper.

§ 7.3 *Paraprofessionals*

(a) Rates.

The CJA guideline rate is actual cost, not to exceed 50% of the hourly CJA panel attorney rate. "Actual cost" for in-house paraprofessionals is the regular hourly rate paid, including payroll burden, *e.g.*, payroll taxes, worker's compensation insurance, and actual cost of benefits provided. If compensation is sought at the higher rate, an explanation of the special skills possessed and their application to the case must be attached to the voucher or to the request for pre-approval.

(b) Separate Billing Required.

Paraprofessionals, whether in house or independent, are to be billed on a CJA 21 or CJA 31, not on the attorney's CJA-20 voucher, even if the payee is the attorney or law firm.

The worksheet of paraprofessionals must contain the names, date of compensation, and time expended. [See Appendix 3] Separate worksheets are required for each payee.

(c) Obtaining Pre-approval.

Where the use of paraprofessionals must be pre-approved, the request must detail: projected number of hours; hourly rate,(including an explanation of the special skills possessed and their application to the case, if applicable); and the total anticipated expenditure.

§ 7.4 *Computerized Legal Research*

Computerized legal research fees [Westlaw and Lexis, etc] are reimbursable under, *Other Expenses*, on the required worksheet.

§ 7.5 *Photocopying.*

(a) In-House.

All in-house copying done in the attorney's office regardless of the number of copies made per copy job or per case, will be reimbursed at \$0.25 per page without prior approval.

(b) Outside Services.

Copies made outside the appointed attorney's office will be reimbursed at a rate negotiated by the attorney and supported by a copy of the invoice from the copy company. Copying should be listed on the CJA 20 form under Other Expenses. Copy jobs of \$500 or more require prior court approval per copy job [See Appendix 7 for maximum amounts.]

§ 7.6 *Telephone*

(a) Toll Charges.

Toll and long-distance charges for out-going case-related facsimiles and telephone calls and collect toll calls accepted from incarcerated clients are reimbursable, but local charges are not. Telephone charges must be supported by a marked-up copy of the telephone bill.

§ 7.7 *Postage*

Reimbursement will be made for the actual cost of case-related regular U.S. postage. Receipts are only required if postage cost exceeds \$50.00 per instance.

§ 7.8 *Messenger/Couriers/Express Delivery Services.*

The use of messengers, couriers, and express delivery services, *e.g.* Federal Express, Airborne Express, etc. is discouraged unless there is a genuine necessity for this service. The Court favors timely filing by mail or by ECF. In cases where an outside messenger or courier service is used, receipts must be attached.

§ 7.9 *Fact Witnesses.*

Expenses related to the testimony of a fact witness, either at trial or deposition, including services or subpoenas, transportation and other expenses, are governed by Rule 17 of the Federal Rules of Criminal Procedure. Those expenses are paid by the Department of Justice through the U.S. Marshal's Office.

There is a publication from the United States Marshal Service called the “Public Defender’s Handbook” that provides detailed information concerning the manner in which the United States Marshal assists Federal Public Defenders and court-appointed counsel with witness subpoenas and reimbursement issues. This handbook is found under the CJA Members page of the Defendant office website at <http://wvn.fd.org>.

§ 7.10 *State Court/Other Ancillary Matters.*

Work related to state court proceedings or other ancillary matters will not be compensated unless the attorney obtains prior authorization from the court. [See §10.1 for the procedure for obtaining prior approval.]

§ 7.11 *Interim Reimbursement.*

Interim reimbursement of expenses, *e.g.* hotel bills, airline tickets, car rentals, phone bills, copy and duplication fees and the like, may be requested and may be authorized when counsel’s reasonably-incurred, out-of-pocket expenses exceed \$500.00.

§ 7.12 *Non-Reimbursable Expenses.*

The following are NOT reimbursable under the CJA:

- ★ General office overhead, *e.g.* secretarial help (whether regularly or specially employed), rent, office supplies or equipment telephone lines or service (although telephone toll calls and telegrams are reimbursable). **Attorneys will not be compensated for secretarial duties, *e.g.* filing of court documents, mailing, faxing, copying, *etc.***
- ★ Books, journals or other publications.
- ★ Billing for time needed to prepare or litigate vouchers.
- ★ Taxes paid on attorney compensation received pursuant to the CJA, whether based on income, sales or gross receipts.
- ★ The cost of *printing* briefs is not reimbursable, although the cost of photocopying, mimeographing or similar copying services is reimbursable.
- ★ Filing fees: These fees are waived for persons proceeding under the CJA. Fees for deeds to trust to secure defendant’s release are not compensable under the

CJA; these fees are paid for by the person(s) securing the collateral.

- ★ Personal items and services for the client, *e.g.* cleaning or pick up or delivery of clothing or personal items, hair cuts, cigarettes, transportation, lodging, travel, meals, costs of assisting the defendant in the disposition of the defendant's personal property, arranging for placement of minor children of the defendant, assisting the defendant in executing the conditions or probation, assisting the defendant in modifying bond terms such as drafting applications for travel, providing legal assistance in matters unrelated to the litigation of the case although incidental to the defendant's arrest, *etc.* Payments by the appointed attorney for such items will not be reimbursed.
- ★ Alcoholic beverages.
- ★ Costs related to educational seminars, including travel, attendance, registration or materials.
- ★ Time and expenses involved in the preparation of an appeal (whether from interlocutory orders or final judgements) or work related to the review of proceedings before this court. These are considered as applicable to the case before the United States Court of Appeals, and should be included on the voucher for services performed in the court.
- ★ Work related to state court proceedings will not be compensated unless the attorney obtains prior authorization from the court.

[NOTE: The Federal Public Defender Office has a large supply of dress clothes for use by a defendant facing a jury trial who does not have traditional family support for this purpose. Please contact the CJA Panel Administrator well before trial if such clothing is required.]

PART VIII - REIMBURSABLE FEES FOR EXPERTS NAD OTHER SERVICE PROVIDERS

§ 8.1 *CJA 21 (Non-Death Penalty Cases).*

(a) Instructions.

Instructions for completing the CJA 21 voucher are contained in Appendix 10.

(b) Interactive Forms.

Blank interactive CJA 21 Forms and support worksheets may be downloaded from the Federal Public Defender website for use in preparing vouchers for payment.

(c) One-Time Expert/Service Provider.

If the expert or other service provider has been retained on a one-time, non-recurring basis, the appointed attorney may submit the CJA 21 for payment in full before the end of the case.

Continuing or repetitive use of an expert or other service provider in the same case does not constitute a one-time, non-recurring basis.

(d) Continued Use of Experts/Service Providers.

For cases in which the expert's services are required during the pendency of the case, the attorney may request and justify periodic or interim payments to the experts in lieu of waiting until the end of the case. See §10.1 for the procedures for obtaining approval.

§ 8.2 Funding Request for the Services Exceeding Maximums.

(a) Maximums.

The maximum amount that may be expended without prior court approval is set forth in Appendix 7.

(b) Prior Authorization Required.

No payment in excess of the maximum may be made without prior authorization by the judge unless the judge makes a subsequent filing that the services could not await prior authorization. A form memorandum requesting advance authorization is contained in Appendix 11.

(c) Duty to Negotiate Rate.

The appointed attorney must negotiate the lowest reasonable compensation rate and total time required with the expert, investigator, interpreter, psychiatrist, psychologist or other person providing services.

§ 8.3 *Funding Request.*

(a) General.

Payments above the maximum may be made where necessary to provide for fair compensation for services of an unusual character or duration. [18 U.S.C. §3006A(c)(3)]. *See* §10.1 for the procedures for obtaining authorization.

(b) Requirements.

Any payment to an expert in excess of the statutory maximum requires:

- (1) A declaration from the appointed attorney justifying payments;
- (2) Certification by the trial judge authorizing payment; and
- (3) Approval by the Chief Judge of the U.S. Court of Appeals for the Fourth Circuit (or designated circuit judge). After approval from the Fourth Circuit, the voucher is returned to the Court, then returned to the attorney for the expert's signature. It is then sent to the CJA Panel Administrator at the conclusion of the service.

(c) Attorney's Declaration.

The justification declaration from the appointed attorney must set forth the reasons for the expert service requested, including:

- (1) Basis for excess payment if the amount requested for any expert exceeds the maximum amount that may be approved by a district judge or magistrate judge [*See* Appendix 7 for maximums and approval levels];
- (2) Name and address of the expert and the expert's speciality *e.g.* an investigator, a forensic pathologist;
- (3) Hourly rate;
- (4) Tax identification Number; and
- (5) Projected total hours expended with a justification for that total.

§ 8.4 *No Payments in Excess of Amount Authorized.*

(a) Authorized Amount.

All expert expenditures require pre-authorization by the judge. The court will normally approve the appropriate rate of compensation and set a cap for the total expenditure authorized. *See* §10.1 for the procedure for obtaining authorization.

(b) Responsibilities of Counsel.

Upon approval of funds for investigative services, experts or other services, the appointed attorney is responsible for providing a copy of the authorization order to the service provider and communicating with the service provider to ensure that services comply with specific terms of the court order and do not exceed the amount authorized.

An Information Sheet for Experts and Other service Providers, which can be given to the provider, outlining the terms of appointment and process for submitting vouchers is contained in Appendix 11.

Claims in excess of the maximum amount that may be expended without prior court approval [See Appendix 7] or exceeding the amount authorized by the judge will not be paid. The attorney will be advised of the amount that cannot be reimbursed and instructed to request additional funding authorization. If authorization is subsequently granted, a new voucher may be submitted for the uncompensated amount.

§ 8.5 Expert and Service Provider Vouchers.

(a) Necessity of Funding Order for Services Over \$500.00.

The funding order must be attached to the voucher requesting payment for those services. ***Without a funding order, the voucher will be returned to the attorney by the CJA Administrator and will not be paid.***

(b) Responsibilities of Counsel.

Appointed attorneys are responsible for requiring experts and other service providers to submit invoices that are sufficiently detailed to permit review in a manner similar to that required of appointed attorneys.

The appointed attorney must review the expert's or other service provider's invoice and voucher to ensure the expert's or service provider's claim is consistent with the appointed attorney's instructions and accurately reflects the services actually rendered.

By signing the attorney certification on the CJA 21 or CJA 31, the appointed attorney certifies the validity and appropriateness of the services provided.

Attorneys are not authorized to pre-pay experts or other service providers and request later reimbursement.

All expert and other service provider expenses must be submitted on a separate CJA 21 or 31.

§ 8.6 *Investigators.*

The maximum presumptively reasonable rate of investigators is \$65.00 per hour.

If compensation is sought at a rate higher than the presumptive rate, an explanation of the reasonableness and necessity for a higher rate, *e.g.* special skill(s) possessed (*e.g.* proficiency in a relevant foreign language or unique experience/training) and its (their) application to the case, must be attached to the voucher or the request for authorization.

§ 8.7 *Interpreters*

(a) In-Court Interpreters.

In-court interpreters are paid for by the Clerk of the Court. Appointed attorneys should contact the assigned Case Management Clerk when it is anticipated that a court interpreter's services may be needed.

(b) CJA Rate for Out-of-Court Interpreting Services.

The Clerk's rate is not to be used for interpreter services billed through CJA. *See* §10.1 for the procedure for obtaining prior approval. The interpreter is entitled to travel expenses. All interpreter expenses are to be billed on a CJA 21 or CJA 31.

(c) Payment.

If the hiring of an interpreter is a one-time expense, it may be billed by the interpreter immediately. If the attorney anticipates a continuing need for interpreter services, a funding order must be obtained in accordance with the provisions regarding expert or other services.

Interpretive services include both oral interpretation and translation with a written product. The appointed attorney should clarify in the request for funding authorization the portion of "interpretation" or "translation" anticipated.

§ 8.8 *Psychiatrists, Psychologists.*

CJA funds are used to pay for psychiatric and related services obtained in accordance with 18 U.S.C. §3006A(e) upon a determination that the services are “necessary for an adequate defense.” These are “defense” services, where the defendant selects the expert and controls the disclosure of the experts report. It is important to note that psychiatrists and related experts may be used in many circumstances in which payment is made from a source other than the CJA appropriation. In these situations the court or the government selects the expert, and persons other than the defendant also have access to the expert’s report. The Department of Justice (DOJ) generally pays for these “non-defense” services.

§ 8.9 *Depositions.*

(a) Cases in Which the United States is a Party.

Payment of expenses for depositions in cases in which the United States is a party are governed by Rule 15 of the Federal Rules of Criminal Procedure.

§ 8.10 *Transcripts of Proceedings in District Court Cases.*

(a) Payment in General.

Fees for transcripts furnished in criminal proceedings to persons proceeding under the Criminal Justice Act are paid on a CJA 24 by the United States out of CJA funds appropriated for that purpose. When a transcript is paid for by the United States, the court reporter may not require any party requesting the transcript to prepay an estimated fee in advance. The court reporter will not commence transcription services until the CJA 24 has been approved by the presiding judge.

(b) Format.

The court reporter must prepare each transcript in the format prescribed by the U.S. Judicial Conference and may not exceed the rates for transcripts established by the Judicial Conference in effect at the time the authorization was made.

(c) Multi-Defendant cases.

In multi-defendant cases involving CJA defendants, not more than one transcript should be purchased from the court reporter on behalf of all CJA defendants. One of the appointed attorneys should then arrange for duplication, at commercially competitive rates, of enough copies of the transcript for each CJA defendant for whom a transcript has been approved. If the Federal Public Defender is involved in the multi-defendant case, that office will copy the

transcripts for usage by the panel attorneys. The cost of duplication will be charged to the CJA appropriation. This policy does not preclude the court reporter furnishing duplication services at a commercially competitive rate.

§ 8.11 *Procedure for Requesting a Transcript.*

(a) Completion of CJA Form 24.

Refer to Appendix 13 entitled “Instruction for Completing CJA 24, Authorization and Voucher for Payment of Transcript.” Follow the detailed instructions for completing items 1-14. If special authorizations are requested in Item 14, attach a detailed justification, sign, date and complete Item 15.

(b) Processing.

The appointed attorney:

- [A] Submits the completed CJA 24 to the presiding judge for approval in Item 16, and Item 14 if special authorization(s) is(are) requested in Item 13; and
- [B] Transmits a copy by facsimile to the CJA Panel Administrator.

Following approval, the voucher is forwarded to the court reporter. The Court reporter will prepare the transcript, fill out Items 17-21 on the voucher, and notify the attorney when the transcript is ready. When the appointed attorney picks up or receives the transcript, a copy of the completed CJA 24 and invoice must be provided to the CJA Panel Administrator for processing for payment

PART IX - APPOINTED ATTORNEY & EXPERT TRAVEL

§ 9.1 *Travel Time*

(a) General.

Compensation will be approved for time spent for necessary and reasonable travel. Originally, allowable time for travel includes only those hours actually spent *in or awaiting transit*. For further clarification on travel time, refer to the *Guide to Judiciary Policies and Procedures*, Volume VII, Chapter II ¶2.26.

(b) Method of Travel.

Travel must be by the method of transportation that will result in the greatest advantage to the court, cost and other factors considered. In selecting a particular mode of transportation to be used, the traveler should consider energy conservation, total cost to the court, including cost of subsistence and fees, and actual transportation costs.

Travel must be by the most expeditious means of transportation practicable and commensurate with the nature and purpose of the duties of the individual requesting travel.

Travel, other than local, by common carrier (air, rail or bus) will generally result in the most efficient use of energy resources and in the least costly and most expeditious performance of travel and a common carrier is to be used whenever it is reasonably available.

(c) Appointed Attorney Time.

Travel time is to be recorded in the Out-of-Court section of the CJA 20 Form, Item 16(d) or the Travel section of the CJA 30 Form, Item 15(I).

On the Out-of-Court Time Worksheet, travel time must include a description of the purpose of the travel, the points between which travel was made, and, for travel other than by common carrier, the mileage between points. Time for a trip involving a round trip or trip between three or more points all occurring on the same day may be aggregated as a single entry.

(d) Experts and Investigators.

Travel time for experts and investigators should be claimed under compensation on the CJA 21 or 31, Item 16(a).

§ 9.2 *Air and Overnight Travel.*

(a) Advance Approval Required.

All overnight travel and all travel by air where the cost will exceed \$150.00 must have advance judicial approval on an *Ex Parte* Travel Request and Order [see Appendix 14 for a sample form]. This Travel Request and Order combines the judge's authorization to travel and approval for funding.

(b) Government Rates.

CJA appointed attorneys and experts are allowed and encouraged to take advantage of government rates for travel.

(c) Request and Processing.

The attorney must state on the *Ex Parte* Travel Request and Order the purpose, itinerary, duration and estimated expenses for the trip. In the absence of exigent circumstances beyond the control of the attorney, the completed Travel Request and Order must be submitted to the court not less than two weeks before the date travel is to commence. If approved, the court will transmit the Travel Request Form to the CJA Panel Administrator.

Travelers must travel by coach or economy class; any other arrangements must be detailed and specifically ordered by the court.

The CJA Administrator will transmit the approved Travel Request, Order and Travel Authorization [Appendix 14] to the appointed attorney. If the appointed attorney is not the traveler, it is the appointed attorney's responsibility to transmit the Travel Request and Order to the traveler.

(d) Unused Tickets.

If for any reason the traveler is unable to use the airline tickets issued by the Court, it is the traveler's responsibility to immediately return to the Court the unused tickets with a letter explaining why the tickets were not used. Provide the CJA Administrator with copies of the unused airline tickets and the letter. Unless the unused tickets are fully accounted for, the reimbursement voucher will not be processed.

(e) Non-Government Special Fares.

Other special, excursion, and reduced rate round-trip fares for official travel may be used (in lieu of government-contract fares and request coach) when the traveler can determine prior to the start of a trip that this type of service is practical and more economical to the Court. Liability for penalties or costs for changes or cancellations over which the traveler had control will accrue to the traveler if a change or cancellation is due to personal preferences.

When attorneys or experts arrange their own travel without using the government rate, reimbursement will not exceed the contracted government coach fare. Reimbursement will be for the common carrier that is the most efficient, expeditious and advantageous to the Court.

(f) Travel Route.

All travel must be by the usually-traveled most direct route. Reimbursement for travel by other routes will be made only when the traveler establishes official necessity. When a traveler for the traveler's convenience travels by an indirect route or interrupts travel by direct route, the traveler will bear the extra expense. Reimbursement will be made only for the expenses the traveler would have incurred on the usually-traveled route.

(g) Rental Cars.

Travel expenses are limited to those reasonably necessary, reimbursement for rental cards will normally be limited to situations where the use shuttle, taxis or public transportation is either unavailable, or, under all the facts and circumstances, unfeasible or uneconomical. Travelers must exercise prudence in the selection of the least expensive rental vehicle necessary to adequately perform the official travel. The court will not reimburse: Personal Accident Insurance (PAI) or Personal Effects Coverage (PEC) for rental automobiles; or add-ons or upgrades when renting an automobile, or for the excessive cost of refueling a rental car at the rental agency. A claim for rental car expenses must be supported by a statement establishing the reasonableness and necessity for the use of rental vehicle.

(h) Frequent Traveler Programs.

Travelers are permitted to participate in frequent traveler programs for official travel. Section 1116 of the fiscal year 2002 National Defense Authorization Act, Public Law No. 107-107, allows federal contractors including CJA Attorneys and experts to make personal use of frequent flyer mileage and similar travel bonuses arising from official travel. Section 1116 applies even with respect to such benefits received before the date of its enactment (12/28/2001), as well as on and after that date.

§ 9.3 Meals and Lodging/Per Diem rate.

(a) Expenses in Excess of Federal Per Diem Rates.

If the actual expenses incurred for meals and lodging while on overnight travel outside of the city/borough of the traveler's residence in the course of a CJA representation exceed the prevailing limitations governing travel and subsistence expenses of federal judiciary employees, an explanation for the reasonableness and necessity of the excess expenses must be attached.

Since the amount allowable is dependent upon the place of travel, consult with the CJA Panel Administrator for specific per diem rates.

Expenses of subsistence include all reasonable charges for meals (maximum three per day); lodging; all fees and tips to waiters, porters, and hotel maids; and necessary cleaning and pressing of clothing while staying at the hotel (specifically excluded are alcoholic beverages and entertainment expenses, *e.g.* in-room movies, and any expenses incurred for other persons). Expenses other than for meals or lodging, *e.g.* taxi fares, rental car charges, mileage, *etc.* are not included in the per diem rate and may be claimed without regard to the per diem limitation, if receipts are provided.

(b) Meals.

Meals are generally reimbursable only when overnight travel is authorized.

§ 9.4 *Travel Expense Documentation.*

(a) Necessary Attachment to Voucher.

Upon submission of the CJA 20, 21, 30 or 31 voucher that covers reimbursement for the period of the authorized trip, copies of the tickets, passenger receipt, and itinerary must be attached to the voucher.

A copy of the passenger receipt must be appended to the voucher together with a copy of the itinerary or published schedule showing departure and arrival times, as well as lay-over times at any way-point. If using an e-ticket, the itinerary showing the e-ticket's designation must be attached to the voucher.

(b) Worksheet.

When submitting a voucher with trip expenses, use the Travel Expense Worksheet [Appendix 4] and organize expenses and receipts by date.

(c) Receipts Required.

With the exception of tips and mileage calculations, receipts must be submitted with the voucher for all travel (including to and from court) and subsistence expenses regardless of the amount incurred. ***Credit card receipts and billings are not acceptable.***

§ 10.1 *Expenses*

(a) Pre-Authorization Required. Funding for any other expenses should be pre-authorized by motion for an order.

- (1)[A] The appointed attorney files the motion referencing , “Pursuant to CJA” in the title with the Clerk of Court; and
[B] Transmits a copy to the CJA Administrator.
- (2) The voucher submitted for expenses so authorized must contain a copy of the applicable authorization or funding order.

PART X - 1099 REPORTING

The Taxpayer Relief Act of 1997 required that the court track and report to the IRS all payments made to CJA appointed attorney, regardless of the amount. This will be done by obtaining the Social Security Number of the appointed attorney at the time of appointment, however, the Social Security number has been removed from the new CJA 20 and CJA 30 forms to protect the attorney’s privacy.

If the attorney has a pre-existing agreement with his/her law firm, the 1099 will still be reported under the law firm’s tax identification number and not the attorney’s number. All payments, regardless of amount, including expenses reimbursed, are subject to reporting.

In certain circumstances, income should more appropriately be included on an employer’s 1099 instead of the 1099 for a service provider, *e.g.*, paralegal or investigator who is actually in the employ of an attorney. Contact the CJA Panel Administrator in these circumstances to ensure the 1099 reporting will be reflected correctly.

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF WEST VIRGINIA

Case Number: _____

ASSOCIATE WORKSHEET

Case Name: _____

Date	Brief Description of Services	In-Court		Out-of Court				
		Motion Hearing	Other	Investigative	Obtain/Review Records	Legal Research & Brief Writing	Travel Time	Other

Total In-Court Time _____

Total Out-of-Court Time _____

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF WEST VIRGINIA

Case Number: _____

PARAPROFESSIONAL WORKSHEET

Case Name: _____

Date	Name/Rate Description of Service	Investigative	Obtaining/ Reviewing Records	Legal Research & Brief Writing	Travel Time	Other
	Names:	Time:	Time:	Time:	Time:	Time:
	Rate:	Amt:	Amt:	Amt:	Amt:	Amt:
	Name:	Time:	Time:	Time:	Time:	Time:
	Rate:	Amt:	Amt:	Amt:	Amt:	Amt:
	Name:	Time:	Time:	Time:	Time:	Time:
	Rate:	Amt:	Amt:	Amt:	Amt:	Amt:
	Name:	Time:	Time:	Time:	Time:	Time:
	Rate:	Amt:	Amt:	Amt:	Amt:	Amt:
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	Name:	Time:	Time:	Time:	Time:	Time:
	Rate:	Amt:	Amt:	Amt:	Amt:	Amt:

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF WEST VIRGINIA

Case Number: _____

TRAVEL EXPENSE WORKSHEET

Case Name: _____

Date	Airfare	Rental Car	POV (mileage only)	Taxi/Shuttle	Hotel	Meals	Parking Tolls Public Transportation	Other	Daily Totals
Totals									

INSTRUCTIONS/GUIDELINES FOR COMPLETING CJA WORKSHEETS

Worksheets **must**: (1) be legible; and (2) contain sufficient detail to support an audit and review by the CJA Administrator and the courts. Standard form worksheets have been developed to assist the CJA attorney in preparing vouchers and are to be used. These worksheets are: (1) In-Court Worksheet; (2) Out-of-Court Worksheet; (3) Other Expense Worksheet; (4) Travel Expense Worksheet, (5) Expense Worksheet (Non-Travel); (6) Associate Worksheet; and (7) Paraprofessional Worksheet.

(1) WordPerfect® format and (2) Adobe Acrobat® portable document format ("pdf"). These interactive worksheets will perform the mathematical computations automatically and their use is encouraged to reduce the chances of mathematical error.

In making entries on the worksheets, the following should be observed:

1. Enter dates as mm/dd/yr, *e.g.*, 2/21/03 or 12/5/03. [NOTE: Entries in all worksheets must be in chronological order.]
2. Enter monetary amounts in dollars and cents **without** the currency sign, *e.g.*, 10.12 or 22.20.
3. Enter all time in increments of a tenth of an hour, *e.g.*, 2.3 or 1.7.

In-Court Worksheet: This worksheet is to be used to report in-court time expended by the appointed attorney. The worksheet is divided into categories that coincide with the in-court categories on the CJA 20 Voucher. ***Each entry must reflect discrete individual tasks and not simply list multiple tasks performed in a specified block of time.*** [NOTE: "In-court" time is limited to time actually spent in court; it does not include travel time to and from court or time spent preparing for a court hearing or trial; those times are reported as separate items on the Out-of-Court Worksheet.]

"USDC Case No." — Insert the case number of the case.

"USDC Case Name" — Insert the name of the defendant. If a multiple defendant case, insert in the first named defendant followed by the name of the defendant represented in brackets.

"Date" — Insert the date the service was rendered in mm/dd/yr format.

"Brief Description of Services" — Provide a description of court hearing or proceeding attended.

Example 1: Trial (Day 2); **Example 2:** Detention hrg/3rd party release. Select the appropriate classification for the service rendered and enter the time expended for that service in increments of a tenth of an hour in the corresponding box.

Total the time expended in each category and the time spent in-court in all categories, and enter the totals in the corresponding boxes.

Out-of-Court Worksheet: This worksheet is to be used to report out-of-court time expended by the appointed attorney for which compensation is claimed. The worksheet is divided into categories that coincide with the out-of-court categories on the CJA 20 Voucher. ***Each entry must***

reflect discrete individual tasks and not simply list multiple tasks performed in a specified block of time.

"USDC Case No." — Insert the case number of the case.

"USDC Case Name" — Insert the name of the defendant. If a multiple defendant case, insert in the first named defendant followed by the name of the defendant represented in brackets.

"Date" — Insert the date the service was rendered in mm/dd/yr format.

"Brief Description of Services" — Provide a description of services provided in sufficient detail for the reviewing judicial officer to determine the reasonableness of the time expended in relation to the service provided.

For travel, include the places between which travel occurred and, if travel by other than common carrier, the distance in miles between the points traveled, and purpose of travel.

Identify documents reviewed, including transcripts and pleadings, by title and page numbers; and, if necessary for an understanding of the task, explanation of its relevance to the federal proceedings.

Identify documents and pleadings prepared by title and nature of the issues presented.

Identify witnesses interviewed (if in the opinion of the appointed attorney it is inappropriate to provide the name of a witness, identification by type of witness, e.g., "guilt phase witness #1" is sufficient) and topic of interview (a simple description of the general topic of discussion, not specific details, is required).

Identify persons involved in telephone conversations or conferences and topics discussed (a simple description of the general topic of discussion, not specific details, is required).

For legal research, identify specific issues or topics researched. **Example:** Research extent of "special maritime jurisdiction" w/i scope of 18 USC 81 Select the appropriate classification for the service rendered and enter the time in increments of a tenth of an hour in the corresponding box. Total the time expended in each category and the time spent out-of-court in all categories, and enter the totals in the corresponding boxes.

Attach all necessary explanatory materials. For example, justification is required if the time expended exceeds the following guidelines.

1. Document review time is less than 60 pages/hour.
2. If travel is by commercial air:
 - [A] For interstate airlines, including intra-state travel on interstate airlines, the time between the point of departure and the destination shown on the itinerary or carrier's published schedule, plus not more than two and one-half (2.5) hours;
 - [B] For intrastate scheduled commuter airlines, the time between the point of departure and the destination shown on the itinerary or carrier's published schedule, plus not more than one and one-half (1.5) hour; and
 - [C] For travel by air taxi, the time between the point of departure and the destination shown on the itinerary or carrier's published tariff, plus not more than one (1.0) hour.
3. If travel is by other common carrier, e.g., bus or rail, the time between the point of departure and the destination as shown on the itinerary or carrier's published, plus not more than one(1) hour.

4. Non-local travel by other than a common carrier, e.g., taxi, shuttle, privately owned vehicle, *etc.*, for each segment of the trip if a round trip or between three or more points:
 - [A] For travel for four miles or less, two-tenths of an hour; and
 - [B] For travel more than four miles, two-tenths of an hour plus one-tenth an hour for each four miles, or fraction thereof, traveled in excess of four miles.

Travel Expense Worksheet: This worksheet is to be used to report all travel or travel-related expenses for which compensation is claimed.

"USDC Case No." — Insert the case number of the case.

"USDC Case Name" — Insert the name of the defendant. If a multiple defendant case, insert in the first named defendant followed by the name of the defendant represented in brackets.

"Date" — Insert the date the expense was incurred in mm/dd/yr format.

Select the appropriate classification for the expense incurred and enter *total* expense incurred in that category on the date in the corresponding box, *e.g.*, if three parking expenses of \$3.00 each were incurred on the same day, the total of \$9.00 is to be entered in the box corresponding to the date in the "Parking/Tolls/Public Trans" column. Total the expenses incurred in all categories for each day, the entire period by category, and all expenses for all categories and days, and enter the totals in the corresponding boxes.

Attach copies of all receipts, travel itineraries, schedules, and tickets. Reimbursement will be disallowed for expenses that are not itemized or for which insufficient documentation is provided.

Receipts are *required* for all travel expenses more than \$25.00 and *encouraged* for all expenses less than \$25.00.

Notwithstanding this policy, receipts are always required for subsistence expenses (as defined in ¶9.5(a)(2)[A] of the CJA Compensation Policy Manual).

Attach all explanatory materials. For example:

If the costs for meals and lodging exceeds the federal per diem rate, an explanation of the reasonableness and necessity for incurring the excess expenses is required; or

If the costs of transportation exceeds the applicable government rate, an explanation of the reasonableness and necessity for incurring the additional expense is required.

Attach copies of all funding and/or travel authorization orders.

Expense Worksheet (Non-Travel): This worksheet is used to report all non-travel expenses for which compensation is claimed.

"USDC Case No." — Insert the case number of the case.

"USDC Case Name" — Insert the name of the defendant. If a multiple defendant case, insert in the first named defendant followed by the name of the defendant represented in brackets.

"Date" — Insert the date the expense was incurred in mm/dd/yr format.

Select the appropriate classification for the expense incurred and enter the expense in the

corresponding box.

"Postage/Delivery" — Charges for special delivery, *e.g.*, UPS, FedEx, DHL, express mail, or messenger are included in this category.

"In-House Copies" — insert the number of pages copied, the charge per copy (not to exceed \$0.25), and the total charges (number of copies multiplied by the per copy charge).

"Outside Copying" — insert the number of pages copied and the total charge as shown on the invoice.

Total the expenses incurred in each category and the all expenses in all categories, and enter in the corresponding boxes.

Attach copies of all required receipts. Reimbursement will be disallowed for expenses that are not itemized or for which insufficient documentation is provided.

Receipts are *required* for all non-travel expenses more than \$50.00 and *encouraged* for all expenses less than \$50.00.

Notwithstanding this policy, receipts are always required for the following:

1. Outside copying regardless of the amount; and
2. Premium delivery and messenger services, *e.g.*, Federal Express, UPS, *etc.*;

Attach any necessary explanations, e.g., necessity for special delivery services.

Attach copies of all funding orders.

Associate Worksheet: To be used to report all time (in-court and out-of-court) expended in connection with the appointment by associated attorneys in the same firm for which compensation is claimed. The worksheet is divided into categories that coincide with the in-court and out-of-court categories on the CJA 20 Voucher for which the use of associates is authorized.

"USDC Case No." — Insert the case number of the case.

"USDC Case Name" — Insert the name of the defendant. If a multiple defendant case, insert in the first named defendant followed by the name of the defendant represented in brackets.

"Name" — Insert the name of the associate who performed the services. [NOTE: A separate worksheet must be prepared for each associate performing services for which compensation is claimed.]

"Date" — Insert the date the service was rendered in nun/dd/yr format.

"Brief Description of Services" — Provide a description of services provided in sufficient detail for the reviewing judicial officer to determine the reasonableness of the time expended in relation to the service provided.

[Follow the guidelines for completion of the attorney's in-court and out-of-court worksheets.]

Select the appropriate classification for the service rendered and enter the time expended for that service in increments of a tenth of an hour in the corresponding box.

Total the time expended in each category, time spent in-court, and the total time spent out-of-court, and enter the totals in the corresponding boxes. [NOTE: *The interactive worksheets perform this function automatically.*]

Attach copies of all pre-authorization orders.

Paraprofessional Worksheet: Used to report all time expended by paraprofessionals in connection with the appointment for which compensation is claimed. [NOTE: Although the worksheet is divided in categories that coincide with the out-of-court categories on the CJA 20, reimbursement for paraprofessionals is claimed on a CJA 21 or 31, not a CJA 20 or 30.] If the payee is the law firm and submission is made on a single CJA 21/31, a single worksheet may be used for more than one paraprofessional.

"USDC Case No." — Insert the case number of the case.

"USDC Case Name" — Insert the name of the defendant. If a multiple defendant case, insert in the first named defendant followed by the name of the defendant represented in brackets.

"Date" — Insert the date the service was rendered in mm/dd/yr format.

"Name/Rate" — Enter the name of the paraprofessional performing the service and the hourly rate of compensation for that person.

"Brief Description of Services" — Provide a description of services provided (sufficient detail for the reviewing judicial officer to determine the reasonableness of the time expended in relation to the service provided). [Follow the guidelines for completion of the attorney's in-court and out-of-court worksheets.]

Select the appropriate classification for the service rendered and enter the time in increments of a tenth of an hour in the "Time" box.

"Amt" — Multiply the time expended by hourly rate and enter in the "Amt" box.

Total the time expended and amounts claimed by all paraprofessionals in each category and the time expended and compensation claimed by all paraprofessionals in all categories, and enter in the corresponding box.

Attach any explanatory materials required, e.g., if the rate is in excess of the presumptive rate, the special skills possessed by the paraprofessional and the application of those skills to the case.

Attach copies of all funding or pre-authorization orders.

Attach copies of all funding or pre-authorization orders.

COMPENSATION MAXIMUMS*

Type of Charge	Statutory Maximum
Felony Charge	\$7800
Direct Appeal	\$5600
Misdemeanor	\$2200
Non-Capital Habeas Petition	\$7800
Appeal, Non-Capital Habeas Petition/Parole Appeal	\$5600
18 U.S.C. §4106A Parole Representation	\$1700
Other Representations	\$1700

EXPENSES/EXPERTS

Approval Level	Amount
Without Prior Authorization	\$500
Prior Authorization (District Court)	\$501-\$1600
Circuit Approval Required	>\$1600

*Note; The Judicial Administration and Technical Amendments Act of 2008, Pub. L. No. 110-406, was enacted on October 13, 2008 to amend the Criminal Justice Act to raise the case compensation maximums for panel attorneys and to expand the authority of the chief judge of the court of appeals to delegate the approval of excess compensation vouchers to include senior circuit judges. See Appendix 00. For representation completed on or before October 13, 2008, the former statutory maximums apply.

GUIDANCE TO ATTORNEYS IN DRAFTING THE MEMORANDUM REQUIRED FOR
ACOMPENSATION CLAIM IN EXCESS OF THE CASE COMPENSATION MAXIMUM:
DISTRICT COURT

Paragraph 2.22C(2) of the *Guidelines for the Administration of the Criminal Justice Act (CJA Guidelines)*, Volume VII, *Guide to Judiciary Policies and Procedures*, provides:

In any case in which the total compensation claimed is in excess of the statutory case compensation maximum, counsel shall submit with the voucher a detailed memorandum supporting and justifying counsel's claim that the representation given was in an extended or complex case, and that the excess payment is necessary to provide fair compensation. Paragraph 2.22B(3) of the *CJA Guidelines* states that a case is complex if the "legal or factual issues. . . are unusual, thus requiring the expenditure of more time, skill and effort by the lawyer than would normally be required in an average case," and that a case is extended if "more time is reasonably required for total processing than the average case". Paragraph 2.22B(3) lists the following criteria as useful in determining fair compensation in extended or complex cases: responsibilities involved measured by the magnitude and importance of the case; manner in which duties were performed; knowledge, skill, efficiency, professionalism, and judgment required of and used by counsel; nature of counsel's practice and injury thereto; any extraordinary pressure of time or other factors under which services were rendered; and any other circumstances relevant and material to a determination of a fair and reasonable fee.

To assist counsel in writing a "detailed memorandum supporting and justifying counsel's claim that the representation given was in an extended or complex case, and that the excess payment is necessary to provide fair compensation," the following topics are provided for counsel's consideration. Some of these issues may not apply to a particular case or may not be noteworthy for this memorandum. Counsel, of course, may address topics other than those listed below.

- ◆ Length of appointment to case; total number of in-court hours, specifying pre-trial hearings, trial, sentencing hearings, and other; and total number of out-of-court hours.
- ◆ Offense(s) charged; number of counts charged; and other pending cases of defendant during the representation.
- ◆ Number of co-defendants.
- ◆ Length of sentencing hearing ; complexity of issues; severity of potential sentence; sentencing.
- ◆ Discovery materials (nature and volume) and/or discovery practices.
- ◆ Complexity or novelty of legal issues, including motions, legal memoranda, jury instructions, and sentencing documents, or legal research not resulting in such ,

which were drafted originally for this case (do not include standardized motions, etc., unless content was modified significantly).

- ◆ Investigation and case preparation (e.g., number and accessibility of witnesses interviewed, record collection, document organization).
- ◆ The following client considerations: communication with client/family, language difference, accessibility of client, other.
- ◆ Any expense (see Items 17 and 18 of the CJA 20 voucher) greater than \$500.
- ◆ Any other noteworthy circumstances regarding the case and the representation provided to support this compensation request. Include, if applicable: negotiations with the U.S. Attorney's office or law enforcement agency; complexity or novelty of legal issues and factual complexity; responsibilities involved measured by the magnitude and importance of the case; manner in which duties were performed and knowledge, skill, efficiency, professionalism, and judgment required of and used by counsel; nature of counsel's practice and hardship or injury resulting from the representation; any extraordinary pressure of time or other factors under which services were rendered.

INSTRUCTIONS FOR CJA FORM 20
APPOINTMENT AND AUTHORITY TO PAY COURT APPOINTED COUNSEL

Read these instructions carefully before completing the form. Accuracy and thoroughness will aid in the prompt payment of the claim. If possible, use a typewriter to complete the form; otherwise, write legibly with a ball point pen (preferably black or dark blue ink). [NOTE: Interactive forms are available in the CJA Section of the Federal Public Defenders website, <http://www.wvn.f.d.org>. *If interactive forms are used, be sure to attach it to a copy of the original appointment voucher bearing the signature of the appointing official.*] If the form is system generated, Items 1 through 12 and 14 will be preprinted on the form. Attach an itemized statement of the services provided and expenses incurred. Give the date and the number of hours claimed for each service provided. Provide dates for and a description of the expenses incurred. For additional guidance, see the *Guidelines for the Administration of the Criminal Justice Act and Related Statutes (CJA Guidelines)*, Volume VII, *Guide to Judiciary Policies and Procedures*, and the *CJA Compensation Policy Manual* for the Northern District of West Virginia.

Appointed counsel may obtain investigative, expert, and other services necessary for adequate representation in accordance with the procedures set forth in the Criminal Justice Act (CJA), 18 U.S.C. §3006A(e). Prior authorization from the presiding judicial officer is required for all such services where the cost, excluding expenses, will exceed \$500. Failure to obtain prior authorization will result in the disallowance of any amount claimed for compensation in excess of \$500, unless the presiding judicial officer, in the interest of justice, finds that timely procurement of necessary services could not await prior authorization. Payment for these services should be claimed directly by the service provider on a CJA Form 21, "Authorization and Voucher for Expert and Other Services."

SEQUENCE OF ATTACHMENTS. Be sure that all necessary supporting statements and documentation are attached in the following sequence: (1) If an interim request, a copy of the order authorizing interim payments; (2) Excess Compensation Memorandum [CJA 26(a)], if applicable; (3) Statement of Total Time and Charges; (4) In-Court Worksheet(s) with applicable attachments; (5) Out-of-Court Worksheet(s), with applicable attachments; (6) Travel Expense Worksheet, with receipts, itineraries, *etc.*; and (7) Other Expense Worksheet, with receipts.

VOUCHERS MUST BE SUBMITTED NO LATER THAN 45 DAYS AFTER THE FINAL DISPOSITION OF THE CASE, UNLESS GOOD CAUSE IS SHOWN (¶ 2.21A, CJA GUIDELINES). ALL PAYMENTS MADE PURSUANT TO THIS CLAIM ARE SUBJECT TO POST-AUDIT; CONTEMPORANEOUS TIME AND ATTENDANCE RECORDS AS WELL AS EXPENSE RECORDS MUST BE MAINTAINED FOR THREE YEARS AFTER APPROVAL OF THE FINAL VOUCHER (¶ 2.32, CJA GUIDELINES). ANY OVERPAYMENTS ARE SUBJECT TO COLLECTION, INCLUDING DEDUCTION OF AMOUNTS DUE FROM FUTURE VOUCHERS.

Item 1. CIR./DIST./DIV. CODE: This six-character location code is the circuit, district, and divisional office codes of the court where the proceedings for the person represented are held.

Item 2. PERSON REPRESENTED: Give the full name of the person whom you were appointed to represent.

Items 3-6. DOCKET NUMBERS: Provide the case file or miscellaneous number assigned by the court.

Note: If two or more cases are heard or tried together for the person represented, complete a separate voucher for each case in which representation is provided (*i.e.*, for each docket number listed). Prorate the total time among the cases. On supporting documentation, cross reference all related claims for which costs are prorated.

Item 7. IN CASE/MATTER OF (CASE NAME): In criminal cases, enter *U.S. vs. Defendant's Name*. If it is a multiple defendant case, give the case cite as provided on the indictment or information (e.g., *U. S. vs. Lead Defendant's Name, et al*). If the person represented is not a defendant (e.g., material witness), enter the first named defendant in the court's recording of the case. If this is a civil case (e.g., *habeas corpus*), enter the *Name of the Petitioner vs. the Name of the Respondent* and include the respondent's title. If other than a civil or criminal case (*i.e.*, miscellaneous matters), enter "*In the Matter of*" followed by the *Name of the Person Represented*.

Item 8. PAYMENT CATEGORY: Check the appropriate box that establishes the statutory threshold for representation in this case type. If "Other" payment category is checked, specify the category within the scope of the CJA. See paragraph 2.22 B(2) of the *CJA Guidelines*.

Item 9. TYPE PERSON REPRESENTED: Check the box that defines the legal status of the person represented.

Item 10. REPRESENTATION TYPE: From the list below, select the code that describes the type of representation:

CC *A defendant charged in a criminal case with an offense(s) that is a felony, misdemeanor, or petty offense under the United States Code, or an assimilated crime under a state code including ancillary matters.*

NT *A new trial either directed from the court of appeals on remand or as a result of a mistrial*

MA *Motion attacking a sentence (28 U.S. C. § 2255)*

MC *Motion to correct or reduce sentence (F.R.Cr.P. 35)*

HC *Habeas corpus, non-capital (28 U.S.C. § 2254)*

BP *Bail Presentment*

WI *Material Witness (in custody)*

WW *Witnesses (Grand Jury, a Court, the Congress, a Federal Agency, etc.)*

PR *Probation Revocation*

PA *Parole Revocation*

SR *Supervised Release Hearing*

EW *Extraordinary Writs (Prohibition, Mandamus)*

CH *Mental Competency Hearings (see Chapter 313 of Title 18 U.S. Code)*

PT *Pretrial Diversion*

EX *Extradition Cases (Foreign)*

Other (*e.g., line ups, consultations, prisoner transfer, etc.*)

FOR DEATH PENALTY CASES, USE THE CJA FORM 30 AND APPLICABLE TYPE OF

REPRESENTATION CODES.

Item 11. OFFENSE(S) CHARGED: Cite the U.S. Code, with title and section, or other code citation of the offense or offenses (list up to five) with which the person represented is charged. If other than a federal code is cited, state the statutory maximum period of confinement authorized for the offense. If a civil matter, such as a habeas corpus representation or a motion attacking sentence, cite 28 U.S.C. § 2254 or 28 U.S.C. § 2255, respectively. For direct appeals from a case disposition, cite the major offense (U.S. Code, title and section) for which the defendant was convicted.

Items 12/14 ATTORNEY'S NAME AND MAILING ADDRESS AND NAME AND MAILING ADDRESS OF LAW FIRM: Complete Item 12 with the legal name and address of the attorney appointed to represent the person whose name is shown in Item 2. If prior to your appointment for representation, you had a pre-existing agreement with a law firm or corporation, including a professional corporation, indicating that CJA earnings belong to the law firm or corporation, rather than to the court-appointed attorney/payee, provide the name and mailing address of that law firm or corporation in Item 14. This information will allow earnings to be reported to the Internal Revenue Service (IRS) on a 1099 Statement as earnings of the law firm or corporation and not as the earnings of the attorney appointed. (*Note: Information about a pre-existing agreement, including the Taxpayer Identification Number (TIN) of the law firm or corporation, should be provided to the court staff when the attorney is admitted to the panel or at initial appointment to a case.*)

Item 13: COURT ORDER: Check the box that describes the type of counsel appointed. If appointed as a substitute counsel, give the name of the previous counsel and the appointment date. If appointed as a "Standby Counsel," check "Other" and attach a court order establishing this type of appointment in accordance with ¶ 2.17 of the *CJA Guidelines*. Also check "Other" if counsel is appointed pursuant to 28 U.S.C. § 1875(d)(1) to protect a juror's employment rights, and attach the court order appointing counsel for this purpose. The remaining portion of this item will be completed by the Criminal Justice Act Panel Administrator. The presiding judicial officer, Clerk of the Court or other court designated person must sign and date this court order to validate the appointment. If services were provided prior to court appointment, the presiding judicial officer must ratify the previous service by indicating a "*nunc pro tunc*" date that covers the services prior to appointment. No other court order is necessary. Indicate whether the court orders full or partial repayment of the cost for representation from the person represented at the time of appointment by checking "Yes" or "No."

Item 15. IN-COURT SERVICES: Enter the total number of hours claimed (*in hours and tenths of an hour*) for each applicable in-court service category. To support the totals entered in each category, attach to the voucher an itemization of services, by date, and indicate the number of hours for each service using the required worksheets or authorized alternative method (*see* §3.4 of the *CJA Manual* for definition of in-court time). Enter the total in-court hours where required on the form, and multiply the total number of in-court hours claimed by the hourly rate in effect for the place of holding court in which the representation is provided or the attorney maintains his or her principal office. If the case is an appeal to the court of appeals, enter the higher of the rates per

hour in effect for the place of holding court in which the attorney maintains his or her principal office or the place of holding court out of which the case arose. Enter the total amount claimed in the appropriate box on the form. *[If using interactive forms, the computation is performed automatically.]*

Item 16. OUT-OF-COURT SERVICES: Complete according to the instructions above for in-court time, using the applicable out-of-court hourly rate of compensation and attaching the required worksheet.

NOTE: The "**FOR COURT USE ONLY**" column will reflect any mathematical or technical adjustments to the claim during the judicial approval process or changes during a required additional review of the chief judge of the court of appeals (or delegate).

Item 17. TRAVEL EXPENSES: Travel related expenses that are incidental to the representation (*e.g.*, transportation, lodging, meals, car rental, parking, bridge, road and tunnel tolls, *etc.*) must be itemized on the travel expense worksheet, indicating dates the expense was incurred. Attach supporting documentation (receipts, canceled checks, *etc.*) for all travel expenses. Travel expenses by privately owned automobile, motorcycle, or aircraft should be claimed at the rate in effect for federal judiciary employees at the time of travel. For overnight travel, reasonable expenses for lodging and meals will be reimbursed on an actual expense basis; per diem is not allowed. Counsel should be guided by prevailing limitations for travel and subsistence expenses of federal employees. The CJA Administrator can advise you of applicable rates and federal government travel regulations.

Item 18. OTHER EXPENSES: Itemize all reimbursable out-of-pocket expenses incidental to representation using the Expense Worksheet (Non-Travel). Provide dates and a brief description of the expense. Enter the total claimed where required on the form. Submit supporting documentation (receipts, canceled checks, *etc.*) for single item expenses in excess of \$50. Reimbursable expenses may include, in some circumstances, payments to law students or law clerks for legal research and assistance and the cost of computer assisted legal research (CALR) when conducted by counsel. See ¶¶ 2.31 and 3.15 of the *CJA Guidelines* for an explanation. The following **are not reimbursable** expenses, and should not be claimed:

1. *General office overhead, such as rent, telephone services, and secretarial services.*
2. *Expenses for items of a personal nature for the client (e.g., clothes, haircuts).*
3. *The cost of printing briefs. However, the cost of photocopying or similar copying service is reimbursable.*
4. *Fact witness fees, witness travel costs, and expenses for service of subpoenas. These expenses are not paid out of the CJA appropriation, but instead are paid by the Department of Justice pursuant to F. R. Cr. P. 17, and 28 U.S.C. § 1825. Contact the United States Marshal for payment procedures. See ¶ 3.13 of the CJA Guidelines for guidance on payment of witness fees generally.*

5. *Filing fees. These fees are waived for persons proceeding under the CJA.*
6. *The cost of allowable investigative, expert, or other services. (See Chapter III of the CJA Guidelines). Such services should be requested using a CJA Form 21.*
7. *Compensation taxes. Taxes paid on attorney compensation, whether based on income, sales or gross receipts are not reimbursable expenses.*

Totals: Enter the Grand Totals where required by adding "in-court" and "out-of-court" totals, "travel" and "other expenses." [If using the interactive forms, these items are automatically computed.]

Item 19. CERTIFICATION OF ATTORNEY/PAYEE FOR PERIOD OF SERVICE: The person appointed by the court must certify dates of service for the representation. Indicate, where required, the date range for the services claimed on the voucher.

Item 20. APPOINTMENT TERMINATION DATE, IF OTHER THAN CASE COMPLETION: If the appointment is discontinued by order of the court (*i.e.*, substitute counsel or reasons other than disposition of the defendant's case, such as fugitive defendant, appointment of federal defender, or retention of counsel by a defendant), give the effective date for termination of appointment.

Item 21. CASE DISPOSITION: Indicate case disposition for the person represented (*e.g.*, dismissed, convicted/final plea guilty, probation revoked, other, *etc.*). Select a code from the table below.

District Court Criminal and Other Proceedings	Type of Disposition	Code
	Dismissed	1
	Acquitted by Court, or Government Motion for Judgement of Acquittal Granted	2
	Acquitted by the Jury	3
	Convicted/Final Plea Guilty	4
	Convicted/Final Plea Nolo	5
	Convicted/Court Trial	8
	Convicted/Jury Trial	9
	Mistrial	C
	Not Guilty/Insane/Court Trial	E

	Guilty/Insane/Court Trail	F
	Not Guilty/Guilty/Insane/Jury Trial	G
	Guilty/Insane/Jury Trial	H
	Other (PTD matters, Other Reps., Transfers)	X
Appeals	Affirmed	A
	Reversed	R
	Remanded	O
	Reversed in part/Affirmed in Part	RA
	Affirmed in Part/reversed in Part	AR
	Dismissed	1
Probation/Parole/SR	Revoked	RV
	Restored	RS
Habeas/Petitions/Writs	Granted	GR
	Denied	DE

Item 22. CLAIM STATUS: Indicate, by checking the appropriate box, whether the voucher is (1) the final payment for the services, (2) an interim payment, or (3) a supplemental payment (an additional claim submitted after a final payment is made). If an interim payment, indicate the interim payment number. Complete the remaining portion of Item 22, and sign and date the affirmation statement before submitting the claim for court approval.

Items 23-28a. APPROVED FOR PAYMENT: The presiding judicial officer will indicate the amount approved for payment in each category (Items 23 - 26). These amounts will reflect any mathematical and technical adjustments to your claim. The "**TOTAL AMOUNT APPROVED/CERTIFIED**" for payment equals the amount approved in the major categories, less any amounts withheld for an interim payment. **SIGNATURE OF THE PRESIDING JUDICIAL OFFICER:** If the total amount approved for payment (both in-court and out-of-court), not including expenses, is less than or equal to the statutory limitation, the claim will be processed for payment. The presiding judicial officer will sign and date the voucher indicating approval of the amount to be paid in Item 27. If compensation exceeds the statutory threshold for the representation, submit a detailed memorandum, supporting and justifying that the representation was provided in a complex or extended case and that the claim for the excess amount is necessary to provide fair compensation. Upon preliminary approval of the claim, the presiding judicial officer will (1) signify approval by circling the word "cert" (for word certified) in Item 27 and (2) forward the voucher to the chief judge of the court of appeals (or delegate) for approval of the excess amount. The **JUDGE CODE** will be provided by the court staff.

Item 29-33 APPROVED FOR PAYMENT: For payments in excess of the statutory limitation, the chief judge for the court of appeals (or delegate) will indicate the amount approved for payment in Items 29 - 32. This amount will reflect any adjustments in your claim resulting from additional technical or mathematical review by the chief judge (or delegate). The chief judge of the court of appeals (or delegate) will indicate the **TOTAL AMOUNT APPROVED** for payment of the claim, less any amounts withheld for an interim payment in Item 33.

Item 34. SIGNATURE OF CHIEF JUDGE, COURT OF APPEALS (OR DELEGATE): Before the claim is paid for the excess amount, the chief judge of the appeals court (or delegate) must sign and date Item 34, approving payment for compensation that exceeds the statutory threshold. If approval is not granted, compensation will be limited to the statutory maximum for the representation and expenses as approved. The **JUDGE CODE** will be provided by the court staff.

INSTRUCTIONS FOR CJA 21
AUTHORIZATION AND VOUCHER FOR EXPERT AND OTHER SERVICES

READ THESE INSTRUCTIONS CAREFULLY BEFORE COMPLETING THE FORM. Accuracy and thoroughness will aid in the prompt payment of the claim. Use a typewriter if possible to complete the form; otherwise, write legibly with a ball point pen (preferably black or dark blue ink).

[NOTE: Interactive forms are available in the CJA section on the Federal Public Defenders website, <http://www.wvn.fd.org>.] If the form is system generated, Items 1 through 10 and 14 will be preprinted on the form. Attach an itemized statement of the services provided and expenses incurred. Give the date and the number of hours claimed for each service provided. Provide the dates for, and a description of expenses incurred. For additional guidance, see the *Guidelines for the Administration of the Criminal Justice Act and Related Statutes (CJA Guidelines)*, Volume VII, *Guide to Judiciary Policies and Procedures*, and the *CJA Compensation Policy Manual* for the Northern District of West Virginia.

Refer to 18 U.S.C. § 3006A(e)(1), the *CJA Guidelines*, and the *WA Manual* on making *Ex Parte* applications for services other than counsel.

NOTE: Prior authorization from the presiding judicial officer should be obtained for all investigative, expert, or other services where the cost (excluding reimbursement for reasonable expenses) will exceed \$500. *Failure to obtain prior authorization will result in the disallowance of any amount claimed for compensation in excess of \$500, unless the presiding judicial officer, finds that, in the interest of justice, timely procurement of necessary services could not await prior authorization.*

Compensation may not exceed \$1,600, excluding reasonable expenses, unless the excess amount is certified by the presiding judicial officer as necessary to provide fair compensation for services of an unusual character or duration, and the amount exceeding the statutory limit is approved by the chief judge of the court of appeals (or active appeals court judge to whom the chief judge has delegated excess compensation authority).

If prior authorization is obtained for investigative, expert or other services and later it is determined that the cost of the service will exceed the initial estimate by a significant amount, you should seek, from the presiding judicial officer, further prior authorization for the additional amount.

SEQUENCE OF ATTACHMENTS. Make sure that all necessary supporting statements and documents, to the extent applicable, are attached in the following order: (1) The funding order; (2) Paraprofessional/Law Clerk or Associate Worksheet with applicable attachments; (3) Travel Expense Worksheet, with receipts, itineraries, *etc.*; and (4) Other Expense Worksheet, with receipts.

ALL PAYMENTS MADE PURSUANT TO THIS CLAIM ARE SUBJECT TO

POST-AUDIT. ANY OVERPAYMENTS ARE SUBJECT TO COLLECTION, INCLUDING DEDUCTION OF AMOUNTS DUE FROM FUTURE VOUCHERS.

Item 1. CIR./DIST./DIV. CODE: This six-character location code is the circuit, district and divisional office codes of the court where the proceedings for the person represented are held.

Item 2. PERSON REPRESENTED: Give the full name of the person whom you were appointed to represent.

Items 3-6. DOCKET NUMBERS: Provide the case number or miscellaneous number assigned by the court.

In-Court Payment Rates

1. Court appointed counsel will be paid at the following rates for in-court time:

Regular Cases		Death Penalty Cases	
Work Performed	In-Court Rate Per Hour	Work Performed	In-Court Rate per Hour
Before January 1, 2000	\$65		
After January 1, 2000	\$70		
After April 1, 2001	\$75		
After May 1, 2002	\$90		
After January 1, 2006	\$92	Before May 20, 2007	\$163
After May 20, 2007	\$94	After May 20, 2007	\$166
After January 1, 2008	\$100	After January 1, 2008	\$170

In-Court time is defined as:

Time Counsel are actually speaking with a judicial officer, whether in the courtroom, in chambers or by telephone, waiting for a hearing to commence, court recesses (excluding lunch breaks, except during jury deliberations), Jury deliberations.

The in-court rate for these examples is premised upon counsel's unavailability to perform work on anything other than the CJA case for which the attorney is required to be at the courthouse.

Out-of-Court Payment Rates

1. Court appointed counsel will be paid at the following rates for out-of-court time:

Regular Cases		Death Penalty Cases	
Work Performed	Out-of-Court Rate Per Hour	Work Performed	Out-of-Court Rate Per Hour
Before January 1, 2000	\$45		
After January 1, 2000	\$50		
After April 1, 2001	\$55		
After May 1, 2002	\$90		
After January 1, 2006	\$92	Before May 20, 2007	\$163
After May 20, 2007	\$94	After May 20, 2007	\$166
After January 1, 2008	\$100	After January 1, 2008	\$170

Some examples of out-of-court rates include time spent:

Conferring with counsel, client or witnesses during court breaks, Travel time, Research, Preparation of pleadings and correspondence.

Maximum Compensation per Case

See 18 U.S.C. Section 3006A(d)(2) for an outline of the maximum compensation allowed for various types of representations. Maximum compensation amounts do not include allowable expenses.

Effective October 13, 2008, the maximums allowed at the District Court level are:

Felonies	\$7800
Misdemeanors	\$2200
Appellate Court Case	\$5600
U.S. Parole Commission Representation	\$1700
Appeal	\$5600
All Others	\$1500

If all services were performed in a case prior to October 13, 2008, the former statutory maximums apply. However, in a case that commenced prior to October 13, 2008, if any services were performed after that date, the above listed maximums apply to the case.

Examples of representations falling into the category of "All Others" include:

1. *Petty Offenses*
2. *Revocation*
3. *Rule 40*
4. *Bail proceedings*
5. *Material/Grand Jury witness*
6. *2254/2255 Petitions*
7. *Pre-indictment consultations*
8. *Probation violations*
9. *Supervised release hearings*

If the amount of compensation claimed (not including expenses) exceeds the statutory maximums, amounts paid in excess of the maximums must be approved by both the judge handling your case and the Chief Judge of the 4th Circuit of Appeals.

Prorating Claims for Compensation

There may be times when the proration of claims is appropriate. Whenever appointed counsel submit separate vouchers: Time spent in common on more than one indictment or case must be prorated among the indictments or cases on which time was spent. Each indictment or case must be cross-referenced on the vouchers. Time spent exclusively on any one indictment or case may be properly be charged on the voucher for that indictment or case.

Following is a table outlining appropriate prorations:

If	Whether or not	Then	and under (d)(2) of CJA
A defendant is charged in on indictment with severable counts	the counts are severed at trial	one voucher is submitted	one maximum is applied

A defendant is changed in two or more indictments	the indictments are consolidated for trial (other than a superceding indictment or information)	a separate voucher should be submitted	a separate maximum is applied for each indictment
A single counsel is appointed to represent multiple defendants		separate vouchers must be submitted for each defendant represented	a separate maximum is applied for each defendant

Expenses

Reimbursement will be allowed for actual (not estimated) expenses. Supporting documentation, such as receipts must be submitted for single item expenses in excess of \$50 (e.g. telephone bills, copy charges, etc...).

Before undertaking extraordinary travel or any travel involving an overnight stay related to CJA representation, the judge handling your case must grant a motion filed by counsel.

Mileage rates are as follows:

<i>Dates of Travel</i>	<i>Rate Per Mile</i>
June 7, 1996 to September 7, 1998	\$0.310
September 8, 1998 to March 31, 1999	\$0.325
April 1, 1999 to January 13, 2000	\$0.310
January 14, 2000 to January 21, 2001	\$0.325
January 22, 2001 to January 21, 2002	\$0.345
January 22, 2002 to December 31, 2002	\$0.365
January 1, 2003 to December 31, 2003	\$0.360
January 1, 2004 to February 3, 2005	\$0.375
February 4, 2005 to August 31, 2005	\$0.405
September 1, 2005 to December 31, 2005	\$0.485
January 1, 2006 to January 31, 2007	\$0.445
February 1, 2007 to February 29, 2008	\$0.485

March 19, 2008 to July 31, 2008	\$0.505
Effective August 1, 2008	\$0.585

Paralegal expenses must be billed on a CJA Form 21. The judge handling your case must approve the expenses by signing section 15 of the form before it is submitted for payment.

Computer-Assisted Legal Research Expenses

Computer-assisted legal research may be allowable expense, provided that the total amount approved for computer- assisted legal research does not exceed the total amount of attorney compensation that reasonably would have been approved if counsel had performed the research manually.

Any voucher including a request for reimbursement of computer-assisted legal research expense must include the following:

A brief statement setting forth the issue or issues that were the subject matter of the research . An estimate of the number of hours of attorney time that would have been required to do the research manually.

A copy of the bill and receipt for the use of the equipment or an explanation of the precise basis of the charge.

Subpoenas

Payment for service of subpoenas is not allowable under the CJA. **Attorneys must fill out the U.S. Marshal's Form 285- Process, Receipt and Return Form**, which is available from the Clerk's Office. The Clerk's Office will issue the subpoena and give it , along with the Form 285, to the U.S. Marshal's Service.

The Clerk's Office will not issue subpoenas that require witnesses to travel 100 miles or more, or pay for the travel expenses for a witness, unless an order is first issued by the judge handling the case.

Transcripts

The CJA Form 20 should not be used to request reimbursement for the cost of transcripts. Attorneys must request a transcript using the CJA Form 24 for authorization and payment of a transcript. Please consult CJA 24 instructions when filing out the form. The judge handling the case must approve the expenses by signing Section 16 if the form before it is submitted for payment.

Ex Parte Applications

Counsel is not required to serve opposing counsel with ex parte applications. The application will not be placed under seal without an order of the court.

Approval and Payment Claims

Upon receipt by the CIA Administrator of a fully complete and accurate CJA Form 20 voucher, with appropriate attachments, the vouchers are:

**Reviewed for accuracy and completeness*

**Approved by the U.S. District Judge*

**Approved by the Chief Judge of the 4th Circuit, if amounts requested exceed the statutory maximums*

**Processed and entered into the CJA computer system*

Checks are issued to counsel by the Administrative Office of the U.S. Courts in Washington, D.C., and will include the docket number and name of the defendant. If the amount of the compensation paid is less than requested, the reason for the reduction will be included on the check.

MEMORANDUM

To: Chief Judge _____

United States Court of Appeals for the Fourth Circuit

Date: _____

From: _____

Subject: Advance Authorization for investigative, Expert, or Other Services

It is requested that advance authorization be granted to obtain services in an amount in excess of the maximum allowed under the provisions of subsection (e) (3) of the Criminal Justice Act, 18 U.S.C. § 3006A, [or, for capital cases commenced, and appellate proceedings in which an appeal is perfected, on or after April 24, 1996, under 21 U.S.C. §848(q)(10)(B),] as follows:

Case Name & Designation: _____

Name of Expert or Investigator or Service Provider _____

Address: _____

Type of Service: _____

Reason for Application: _____

Estimated Compensation (Non-Capital Case) \$ _____

Estimated Compensation & Expenses (Capital Case) \$ _____

Estimated Compensation & Expenses of All Investigative, Expert & Other Services (Capital Case)
\$ _____

I certify that the estimated compensation in excess of the maximum set forth in U.S.C. §3006A(e)[or, if applicable, the estimated compensation and expenses in excess of the maximum set forth in 21 U.S.C. §848(q)(10)(B),] appears necessary to provide fair compensation for services of an unusual character or duration and therefore recommend approval of this advance authorization in the amount of \$ _____

Date: _____

United States District Judge or Magistrate

Judge

APPROVAL

Advance authorization is hereby approved in the amount of \$_____

Date: _____

Chief Judge, United States Court of Appeals

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

MEMORANDUM CERTIFYING VOUCHER PAYMENT

To: Chief Judge Karen Williams

From: Judge _____

Re: Compensation claim in excess of \$7,800.00 but less than \$11,000.00, not including reimbursable expenses.

Case Name: US v _____

Case Number: _____

Defendant Name: _____

Appointed Counsel: _____

Amount Certified for Payment to Attorney:_____

I have carefully reviewed the attached voucher and I believe the voucher represents a reasonable request for payment by appointed counsel in this case. _____ has attached a detailed letter (or CJA form 26) in support of his/her claim for payment. I have therefore approved the voucher for payment to _____ in the amount of \$ _____, plus reimbursable expenses in the amount of \$ _____, for a total payment of \$ _____.

I certify that this was a complex representation (and/or extended representation) and that the excess payment is necessary to provide fair compensation to appointed counsel. I hope this meets with your approval. Please contact me if you have any questions or concerns about this matter.

Best Regards.

United States District Judge

Date: _____

INSTRUCTIONS FOR CJA 24
AUTHORIZATION AND VOUCHER FOR PAYMENT OF TRANSCRIPT

READ THESE INSTRUCTIONS CAREFULLY BEFORE COMPLETING THE FORM.

Accuracy and thoroughness will aid in the prompt payment of the claim. Use a typewriter if possible to complete the form; otherwise, write legibly with a ball point pen (preferably black or dark blue ink).

[NOTE: Interactive forms are available in the CJA section on the Federal Public Defenders website, <http://www.wvn.fd.org>.] If the form is system generated, Items 1 through 11 will be preprinted on the form.

Item 1. CIR./DIST./DIV. CODE: This six-character location code is the circuit, district and divisional office codes of the court where authorization is given to procure the transcript.

Item 2. PERSON REPRESENTED: Give the full name of the person whom representation is being provided (i.e., the person whom transcript services are requested). Only one name should be entered in Item 2 "Person Represented."

Items 3-6. DOCKET NUMBERS: Provide the case file number or the miscellaneous number of the case for which representation is provided. Prorate the total transcript cost among the cases when costs are shared or apportioned. Cross reference all related claims for which costs are prorated or apportioned.

Item 7. IN CASE/MATTER OF (CASE NAME): In criminal cases, enter *US. vs Defendant's Name*. If it is a multiple defendant case, give the case cite as provided on the information or indictment (e.g., U.S. Lead Defendant's Name, et al). If the person represented is not the defendant (e.g. material witness) , enter the named defendant in the court's recording of the case. If this is a civil case (i.e. miscellaneous matters), enter "*In the Matter Of*" followed by the *Name of the Person Represented*.

Item 8. PAYMENT CATEGORY: Check the appropriate box that defines the statutory threshold for this representation type. If "Other" payment category is checked, specify the category within the scope of the CJA. See paragraph 2.22B(2), of the *Guidelines for the Administration of the CJA and Related Statutes (CJA Guidelines)*, Volume VII, Guide to Judiciary Policies and Procedures.

Item 9. TYPE PERSON REPRESENTED: Check the box that categorizes the legal status of the person represented.

Item 10. REPRESENTATION TYPE: From the list below, select the code that describes the type of representation:

- CC A defendant charged in a criminal case with an offense(s) that is a felony, misdemeanor, or petty offense under the U.S. Code , or the assimilated crime under a state code.

- NT A new trial either directed from the court of appeals on remand or as a result of a mistrial.
- MA Motion attacking a sentence (28 U.S.C. §2255)
- MC Motion to correct or reduce sentence (Fed. R. Crim. P. 35)
- HC Habeas Corpus , non-capital (28 U.S.C. §2254)
- BP Bail Presentment
- WI Material Witness
- WW Witnesses (Grand Jury, a Court , the Congress, a Federal Agency, etc..)
- PR Probation Revocation
- PA Parole Revocation
- SR Supervised Release
- EW Extraordinary Writs (Prohibition , Mandamus)
- CH Mental Competency Hearings (see Chapter 313 of Title 18 U.S. Code)
- PT Pretrial Diversion
- EX Extradition Cases (Foreign)
- OT (e.g. line-ups, consultations, prisoner transfer, etc.)

Item 11. OFFENSE(S) CHARGED: Cite the U.S. Code, title and section, of the offense or offenses for which the death penalty is being sought. If a civil matter, such as a capital habeas representation or motion attacking sentence, cite 28 U.S.C. §2254 or 28 U.S.C. §2255, respectively.

Item 12: PROCEEDINGS IN WHICH TRANSCRIPT IS TO BE USED: Describe briefly the nature of the proceeding or other purpose for which the transcript is required (e.g. motion hearing, trial preparation, trial, appeal).

Item 13: PROCEEDINGS TO BE TRANSCRIBED: Describe specifically the type of proceedings to be transcribed (e.g. preliminary hearing, arraignment, plea, sentencing, trial, motions, parole, or probation proceedings, depositions.) For restrictions on trial transcripts, see Item 14.

Item 14: SPECIAL AUTHORIZATIONS (SERVICES OTHER THAN ORDINARY TRANSCRIPT): The following services are permitted only if the judicial officer gives special authorization (initialed by the judicial officer where required in the form):

A. Apportionment of Transcript Cost. The Judicial Conference has stated that the total cost of accelerated transcript services should not be routinely apportioned among parties.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF WEST VIRGINIA

Case Name _____ Case Number _____

CJA EX PARTE REQUEST AND ORDER

Name of Traveler _____ Attorney Expert

Address of Traveler _____

Dates of Travel _____

Destination: To: _____

From: _____

Airport if different than destination: _____

Purpose of Travel: _____

Brief explanation as to the necessity for travel, how the purpose of the trip is relevant to the facts of the case, and why the number days of travel is required.

Expense Summary:

The following information is a summary of travel expenses to be incurred. The court will not normally reimburse expenses in excess of the government per diem rate. Please check per diem rate for the destination and verify airfare, hotel, and rental car rates before submitting travel request . For current per diem rates for the locale being visited, contact the CJA Administrator.

<i>Description</i>	<i>Number of Days</i>	<i>Total</i>	<i>CJA Administrator Use</i>
<i>Per Diem Rate for Destination \$ _____ (Lodging and Meals)</i>		\$	
<i>Airfare</i>	<i>N/A</i>	\$	
<i>Miscellaneous: Taxi, Shuttle, Tolls</i>	<i>N/A</i>	\$	

<i>TOTAL</i>		\$	
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Submitted by: _____ Date: _____

Attorney Name/Address: _____

Telephone Number: _____ Fax Number: _____

The above estimated travel request is: APPROVED DENIED

Reason for Denial: _____

Dated: _____

U.S. DISTRICT COURT JUDGE / MAGISTRATE
JUDGE

1. CIR./DIST./DIV. CODE	2. PERSON REPRESENTED	VOUCHER NUMBER	
3. MAG. DKT./DEF. NUMBER	4. DIST. DKT./DEF. NUMBER	5. APPEALS DKT./DEF. NUMBER	6. OTHER DKT. NUMBER
7. IN CASE/MATTER OF (<i>Case Name</i>)	8. PAYMENT CATEGORY <input type="checkbox"/> Felony <input type="checkbox"/> Petty Offense <input type="checkbox"/> Misdemeanor <input type="checkbox"/> Other <input type="checkbox"/> Appeal	9. TYPE PERSON REPRESENTED <input type="checkbox"/> Adult Defendant <input type="checkbox"/> Appellant <input type="checkbox"/> Juvenile Defendant <input type="checkbox"/> Appellee <input type="checkbox"/> Othe	10. REPRESENTATION TYPE <i>(See Instructions)</i>

11. OFFENSE(S) CHARGED (Cite U.S. Code, Title & Section) *If more than one offense, list (up to five) major offenses charged, according to severity of offense.*

REQUEST AND AUTHORIZATION FOR EXPERT SERVICES

12. ATTORNEY'S STATEMENT
 As the attorney for the person represented, who is named above, I hereby affirm that the services requested are necessary for adequate representation. I hereby request:
 Authorization to obtain the service. Estimated Compensation and Expenses: Z _____ OR
 Approval of services already obtained to be paid for by the United States pursuant to the Criminal Justice Act. (*Note: Prior authorization should be obtained for services in excess of \$500, excluding expenses*)

Signature of Attorney _____ Date _____
 Panel Attorney Retained Attorney Pro-Se Legal Organization
 ATTORNEY'S NAME (*First Name, M.I., Last Name, including any suffix*), AND MAILING ADDRESS

Telephone Number: _____

13. DESCRIPTION OF AND JUSTIFICATION FOR SERVICES (<i>See Instructions</i>)	14. TYPE OF SERVICE PROVIDER
---	------------------------------

- | | |
|---|---|
| 01 <input type="checkbox"/> Investigator
02 <input type="checkbox"/> Interpreter/Translator
03 <input type="checkbox"/> Psychologist
04 <input type="checkbox"/> Psychiatrist
05 <input type="checkbox"/> Polygraph
06 <input type="checkbox"/> Documents Examiner
07 <input type="checkbox"/> Fingerprint Analyst
08 <input type="checkbox"/> Accountant
09 <input type="checkbox"/> CALR (Westlaw/Lexis, etc.)
10 <input type="checkbox"/> Chemist/Toxicologist
11 <input type="checkbox"/> Ballistics
13 <input type="checkbox"/> Weapons/Firearms/Explosive Expert
14 <input type="checkbox"/> Pathologist/Medical Examiner | 15 <input type="checkbox"/> Other Medical
16 <input type="checkbox"/> Voice/Audio Analyst
17 <input type="checkbox"/> Hair/Fiber Expert
18 <input type="checkbox"/> Computer (Hardware/Software/Systems)
19 <input type="checkbox"/> Paralegal Services
20 <input type="checkbox"/> Legal Analyst/Consultant
21 <input type="checkbox"/> Jury Consultant
22 <input type="checkbox"/> Mitigation Specialist
23 <input type="checkbox"/> Duplication Services (<i>See Instructions</i>)
24 <input type="checkbox"/> Other (<i>Specify</i>) |
|---|---|

15. COURT ORDER
 Financial eligibility of the person represented having been established to the Court's satisfaction, the authorization requested in Item 12 is hereby granted.

 Signature of Presiding Judge or By Order of the Court

 Date of Order _____ Nunc Pro Tunc Date _____
 Repayment or partial repayment ordered from the person represented for this service at time of authorization.
 YES NO

FOR COURT USE ONLY

16. SERVICES AND EXPENSES	AMOUNT CLAIMED	MATH/TECHNICAL ADJUSTED AMOUNT	ADDITIONAL REVIEW
a. <i>Attach itemization of services with dates</i>			
b. <i>Travel Expenses (lodging, parking, meals, mileage, etc.)</i>			
c. <i>Other Expenses</i>			
GRAND TOTALS (CLAIMED AND ADJUSTED):			

17. PAYEE'S NAME AND MAILING ADDRESS _____

 TIN: _____
 Telephone Number: _____
 CLAIMANT'S CERTIFICATION FOR PERIOD OF SERVICE FROM _____ TO _____
 CLAIM STATUS Final Payment Interim Payment Number _____ Supplemental Payment
 I hereby certify that the above claim is for services rendered and is correct, and that I have not sought or received payment (*compensation or anything of value*) from any other source for these services.
 Signature of Claimant/Payee _____ Date _____

18. CERTIFICATION OF ATTORNEY I hereby certify that the services were rendered for this case.
 Signature of Attorney _____ Date _____

APPROVED FOR PAYMENT — COURT USE ONLY

19. TOTAL COMPENSATION	20. TRAVEL EXPENSES	21. OTHER EXPENSES	22. TOTAL AMOUNT APPROVED/CERTIFIED
------------------------	---------------------	--------------------	-------------------------------------

2 Either the cost (*excluding expenses*) of these services does not exceed \$500, or prior authorization was obtained.
 Prior authorization was not obtained, but in the interest of justice the Court finds that timely procurement of these necessary services could not await prior authorization, even though the cost (*excluding expenses*) exceeds \$500.

Signature of Presiding Judge _____ Date _____ Judge Code _____

24. TOTAL COMPENSATION	25. TRAVEL EXPENSES	26. OTHER EXPENSES	27. TOTAL AMOUNT APPROVED
------------------------	---------------------	--------------------	---------------------------

28. PAYMENT APPROVED IN EXCESS OF THE STATUTORY THRESHOLD UNDER 18 U.S.C. § 3006A(e)(3)

 Signature of Chief Judge, Court of Appeals (or Delegate) _____ Date _____ Judge Code _____

SUPPLEMENTAL INFORMATION STATEMENT FOR A COMPENSATION CLAIM IN EXCESS OF THE STATUTORY CASE COMPENSATION MAXIMUM: DISTRICT COURT

THIS FORM PROVIDES INFORMATION TO SUPPORT COUNSEL'S CLAIM THAT THE REPRESENTATION GIVEN WAS IN AN EXTENDED OR COMPLEX CASE, AND THAT THE EXCESS PAYMENT IS NECESSARY TO PROVIDE FAIR COMPENSATION. PARAGRAPH 2.22 B(3) OF THE *GUIDELINES FOR THE ADMINISTRATION OF THE CRIMINAL JUSTICE ACT*, VOLUME VII, *GUIDE TO JUDICIARY POLICIES AND PROCEDURES*, DEFINES THE TERMS "EXTENDED" AND "COMPLEX," AND SUGGESTS CRITERIA FOR DETERMINING "FAIR COMPENSATION." THIS FORM SERVES AS COUNSEL'S MEMORANDUM REQUIRED BY PARAGRAPH 2.22 C(2) OF THOSE *GUIDELINES*, AND DOES NOT REPLACE ANY OTHER DOCUMENTATION REQUIRED TO SUPPORT THE PAYMENT REQUEST. IF EXTRA SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS OF PAPER.

ATTORNEY NAME: _____

CASE NAME: _____

DOCKET NUMBER: _____

DEFENDANT NUMBER: _____

VOUCHER NUMBER: _____

1 PERIOD OF APPOINTMENT (DATES): _____ TO _____

TOTAL NUMBER OF IN-COURT HOURS: _____ SPECIFYING: PRETRIAL HEARINGS _____ TRIAL _____
 SENTENCING HEARINGS _____ ALL OTHER IN-COURT _____
 TOTAL NUMBER OF OUT-OF-COURT HOURS: _____

2 OFFENSES CHARGED:

NUMBER OF COUNTS CHARGED: _____ NUMBER OF CO-DEFENDANTS: _____

OTHER PENDING CASES (DOCKET NUMBERS) OF DEFENDANT DURING REPRESENTATION: _____

IF APPLICABLE, SENTENCING GUIDELINE RANGE FOUND BY THE COURT FOR SENTENCING: _____

WAS A MANDATORY MINIMUM FOUND OR AT ISSUE AT SENTENCING? YES _____ NO _____

3 DESCRIBE DISCOVERY MATERIALS (NATURE AND VOLUME) AND/OR DISCOVERY PRACTICES WHICH ARE A NOTEWORTHY FACTOR IN THE NUMBER OF HOURS CLAIMED:

4 LIST AND DESCRIBE MOTIONS, LEGAL MEMORANDA, JURY INSTRUCTIONS, AND SENTENCING DOCUMENTS, OR LEGAL RESEARCH NOT RESULTING IN SUCH, WHICH ARE A NOTEWORTHY FACTOR IN THE NUMBER OF HOURS CLAIMED AND WHICH WERE DRAFTED ORIGINALLY FOR THIS CASE (DO NOT INCLUDE STANDARDIZED MOTIONS, ETC., UNLESS CONTENT WAS MODIFIED SIGNIFICANTLY):

5 SUMMARIZE INVESTIGATION AND CASE PREPARATION (E.G., NUMBER AND ACCESSIBILITY OF WITNESSES INTERVIEWED, RECORD COLLECTION, DOCUMENT ORGANIZATION) WHICH ARE A NOTEWORTHY FACTOR IN THE NUMBER OF HOURS CLAIMED:

6	EXPLAIN, IF NOTEWORTHY, IMPACT ON THE NUMBER OF HOURS CLAIMED OF INVESTIGATIVE, EXPERT, OR OTHER SERVICES USED (CJA 21 VOUCHER):
7	CHECK WHETHER ANY OF THE FOLLOWING CLIENT CONSIDERATIONS ARE A NOTEWORTHY FACTOR IN THE NUMBER OF HOURS CLAIMED AND EXPLAIN EACH: COMMUNICATION WITH CLIENT/FAMILY _____ LANGUAGE DIFFERENCE _____ ACCESSIBILITY OF CLIENT _____ OTHER _____
8	EXPLAIN ANY EXPENSE (ITEMS 17 AND 18 OF THE CJA 20 VOUCHER) GREATER THAN \$500:
9	EXPLAIN ANY OTHER NOTEWORTHY CIRCUMSTANCES REGARDING THE CASE AND THE REPRESENTATION PROVIDED TO SUPPORT THIS COMPENSATION REQUEST:
INCLUDE, IF APPLICABLE: (A) NEGOTIATIONS WITH U.S. ATTORNEY'S OFFICE OR LAW ENFORCEMENT AGENCY; (B) COMPLEXITY OR NOVELTY OF LEGAL ISSUES AND FACTUAL COMPLEXITY; (C) RESPONSIBILITIES INVOLVED MEASURED BY THE MAGNITUDE AND IMPORTANCE OF THE CASE; (D) MANNER IN WHICH DUTIES WERE PERFORMED AND KNOWLEDGE, SKILL EFFICIENCY, PROFESSIONALISM, AND JUDGMENT REQUIRED OF AND USED BY COUNSEL; (E) NATURE OF COUNSEL'S PRACTICE AND HARDSHIP OR INJURY RESULTING FROM THE REPRESENTATION; AND (F) ANY EXTRAORDINARY PRESSURE OF TIME OR OTHER FACTORS UNDER WHICH SERVICES WERE RENDERED.	

SIGNATURE OF APPOINTED ATTORNEY:

DATE:

1. CIR./DIST./ DIV. CODE	2. PERSON REPRESENTED	VOUCHER NUMBER	
3. MAG. DKT./DEF. NUMBER	4. DIST. DKT./DEF. NUMBER	5. APPEALS DKT./DEF. NUMBER	6. OTHER DKT. NUMBER
7. IN CASE/MATTER OF (Case Name)		8. TYPE PERSON REPRESENTED <input type="checkbox"/> Adult Defendant <input type="checkbox"/> Appellant <input type="checkbox"/> Other <input type="checkbox"/> Habeas Petitioner <input type="checkbox"/> Appellee	
9. REPRESENTATION TYPE <input type="checkbox"/> D1 28 U.S.C. § 2254 Habeas (Capital) <input type="checkbox"/> D3 28 U.S.C. § 2255 (Capital) <input type="checkbox"/> D2 Federal Capital Prosecution <input type="checkbox"/> D4 Other (Specify)			
10. OFFENSE(S) CHARGED (Cite U.S. Code, Title & Section) <i>If more than one offense, list (up to five) major offenses charged, according to severity of offense.</i>			

REQUEST AND AUTHORIZATION FOR EXPERT SERVICES

11. ATTORNEY'S STATEMENT
 As the attorney for the person represented, who is named above, I hereby affirm that the services requested are necessary for adequate representation. I hereby request:
 Authorization to obtain the service. Estimated Compensation and Expenses: Z _____ OR
 Approval of services already obtained to be paid for by the United States pursuant to the Criminal Justice Act. (See Instructions)

Signature of _____ Date _____
 Panel Attorney Retained Attorney Pro-Se Legal Organization
 ATTORNEY'S NAME (First Name, M.I., Last Name, including any suffix), AND MAILING ADDRESS

Telephone Number: _____

12. DESCRIPTION OF AND JUSTIFICATION FOR SERVICES (See Instructions)	13. TYPE OF SERVICE PROVIDER	
14. COURT ORDER Financial eligibility of the person represented having been established to the Court's satisfaction, the authorization requested in Item 11 is hereby granted. Signature of Presiding Judge or By Order of the Court _____ Date of Order _____ Nunc Pro Tunc Date _____ Repayment or partial repayment ordered from the person represented for this service at time of authorization. <input type="checkbox"/> YES <input type="checkbox"/> NO	01 <input type="checkbox"/> Investigator	15 <input type="checkbox"/> Other Medical
	02 <input type="checkbox"/> Interpreter/Translator	16 <input type="checkbox"/> Voice/Audio Analyst
	03 <input type="checkbox"/> Psychologist	17 <input type="checkbox"/> Hair/Fiber Expert
	04 <input type="checkbox"/> Psychiatrist	18 <input type="checkbox"/> Computer (Hardware/Software/Systems)
	05 <input type="checkbox"/> Polygraph	19 <input type="checkbox"/> Paralegal Services
	06 <input type="checkbox"/> Documents Examiner	20 <input type="checkbox"/> Legal Analyst/Consultant
	07 <input type="checkbox"/> Fingerprint Analyst	21 <input type="checkbox"/> Jury Consultant
	08 <input type="checkbox"/> Accountant	22 <input type="checkbox"/> Mitigation Specialist
	09 <input type="checkbox"/> CALR (Westlaw/Lexis, etc.)	23 <input type="checkbox"/> Duplication Services (See Instructions)
	10 <input type="checkbox"/> Chemist/Toxicologist	24 <input type="checkbox"/> Other (Specify)
	11 <input type="checkbox"/> Ballistics	
	12 <input type="checkbox"/> Weapons/Firearms/Explosive Expert	
	13 <input type="checkbox"/> Pathologist/Medical Examiner	

15. STAGE OF PROCEEDING Check the box which corresponds to the stage of the proceeding during which the work claimed at Item 16 was performed even if the work is intended to be used in connection with a later stage of the proceeding. CHECK NO MORE THAN ONE BOX. Submit a separate voucher for each stage of the proceeding.

CAPITAL PROSECUTION	HABEAS CORPUS	OTHER PROCEEDING
a. <input type="checkbox"/> Pre-Trial	e. <input type="checkbox"/> Appeal	g. <input type="checkbox"/> Habeas Petition
b. <input type="checkbox"/> Trial	f. <input type="checkbox"/> Petition for the U.S. Supreme Court	h. <input type="checkbox"/> Evidentiary Hearing
c. <input type="checkbox"/> Sentencing	U.S. Supreme Court Writ of Certiorari	i. <input type="checkbox"/> Dispositive Motions
d. <input type="checkbox"/> Other Post Trial	Writ of Certiorari	j. <input type="checkbox"/> Appeal
		k. <input type="checkbox"/> Petition for the U.S. Supreme Court
		l. <input type="checkbox"/> Stay of Execution
		m. <input type="checkbox"/> Appeal of Denial of Stay
		n. <input type="checkbox"/> Petition for Writ of Certiorari to the U.S. Supreme Court Regarding Denial of Stay
		o. <input type="checkbox"/> Other

FOR COURT USE ONLY			
16. SERVICES AND EXPENSES	AMOUNT CLAIMED	MATH/TECHNICAL ADJUSTED AMOUNT	ADDITIONAL REVIEW
a. <i>Attach itemization of services with dates</i> Compensation			
b. Travel Expenses (lodging, parking, meals, mileage, etc.)			
c. Other Expenses			
GRAND TOTALS (CLAIMED AND ADJUSTED):			

17. PAYEE'S NAME (First Name, M.I., Last Name, including any suffix), AND MAILING ADDRESS _____

TIN: _____

Telephone _____

CLAIMANT'S CERTIFICATION FOR PERIOD OF SERVICE FROM _____ TO _____

CLAIM STATUS Final Payment Interim Payment Number _____ Supplemental Payment

I hereby certify that the above claim is for services rendered and is correct, and that I have not sought or received payment (compensation or anything of value) from any other source for these services.

Signature of Claimant/Payee _____ Date _____

18. CERTIFICATION OF ATTORNEY I hereby certify that the services were rendered for this case.

Signature of Attorney _____ Date _____

APPROVED FOR PAYMENT — COURT USE ONLY

19. TOTAL COMPENSATION	20. TRAVEL EXPENSES	21. OTHER EXPENSES	22. TOTAL AMOUNT APPROVED/CERTIFIED
23. <input type="checkbox"/> Either the cost (excluding expenses) of these services does not exceed \$500, or prior authorization was obtained; OR <input type="checkbox"/> In the interest of justice the Court finds that timely procurement of these necessary services could not await prior authorization, even though the cost (excluding expenses) exceeds \$500.			
Signature of Presiding Judge _____		Date _____	
Judge Code _____			
24. TOTAL COMPENSATION	25. TRAVEL EXPENSES	26. OTHER EXPENSES	27. TOTAL AMOUNT APPROVED

28. FOR REPRESENTATIONS COMMENCED AND APPELLATE PROCEEDINGS IN WHICH AN APPEAL IS PERFECTED ON OR AFTER APRIL 24, 1996,

A. Total compensation and expense payments approved to date (include amounts withheld for interim payments) for investigative, expert and other services for this representation is \$ _____

B. Payment approved (compensation and expenses) in excess of the statutory threshold for investigative, expert and other services under 21 U.S.C. § 848(q)(10)(B).

Signature of Chief Judge, Court of Appeals (or Delegate) Date Judge Code

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

1021 Middleton Street
Orangeburg, SC 29115

Chambers of
Karen J. Williams
Chief Judge

(803) 533-0711
FAX 534-3249

TO: Chief District Judges, District Judges, and Magistrate Judges of the Fourth Circuit

FROM: Karen J. Williams
Chief Judge, U.S. Court of Appeals for the Fourth Circuit

DATE: August 14, 2007

RE: CJA Voucher Approval for Amounts Exceeding Statutory Maximums

The Criminal Justice Act (CJA) requires the Chief Judge of the Circuit to review and approve CJA vouchers in excess of the statutorily-defined case compensation maximums. In order for me to properly carry out my responsibility, I kindly ask that district courts follow the requirements outlined in the CJA and the Guidelines for the Administration of the Criminal Justice Act and Related Statutes (Guidelines) (available on j-net), which the Judicial Conference of the United States established to implement the CJA. This memorandum highlights the main requirements and explains what actions are needed to fulfill them.

A. Attorney Compensation/CJA-20 vouchers

The CJA establishes case compensation maximums of \$7,000 for cases involving felonies, \$2,000 for cases involving misdemeanors, and \$1500 for “other representation,” such as resentencings, violations of supervised release, and witness representations. 18 U.S.C.A. § 3006A(d)(2). Payment in excess of these maximums is allowed when a district court or magistrate judge “certifies that the amount of the excess payment is necessary to provide fair compensation and the payment is approved by the chief judge of the circuit.” Id. § 3006A(d)(3) (emphasis added).

Similarly, for voucher amounts exceeding the statutory case compensation maximum, the Guidelines state that “counsel shall submit with the voucher a detailed

memorandum supporting and justifying counsel's claim that the representation given was in an extended or complex case, and that the excess payment is necessary to provide fair compensation." Guidelines, § 2.22(C)(2). Appendix A of Volume 7 of the Guidelines contains CJA form 26. While not required, this form contains the type of information that should be submitted by counsel to fully support a claim for compensation in excess of the statutory maximum. Simply stating that the time claimed was necessary to an adequate defense is not sufficient to support a claim for payment.

In accordance with the CJA, the Guidelines state that "[p]ayments in excess of CJA compensation maximums may be made to provide fair compensation in cases involving extended or complex representation when so certified by the court." Guidelines, § 2.22(B)(3). Finally, "[u]pon preliminary approval of such claim by the presiding judicial officer, the court should furnish to the chief judge of the circuit a memorandum containing its recommendation and a detailed statement of reasons." Id.

Based on the requirements of the CJA and Guidelines, I therefore ask that vouchers submitted to me for approval be accompanied by a letter or memo signed by the presiding district judge and containing the following: (1) a detailed statement of reasons for the amount in excess of the case compensation maximum, and (2) certification that the amount is necessary to provide fair compensation.

1. Certification Requirement

Each letter should contain the following certification statement: "I certify that this was a complex (and/or extended) representation and that the excess payment in is necessary to provide fair compensation to appointed counsel".

I understand that a district judge may feel that the certification requirement puts him or her in a predicament: if "certify" means "vouch for, attest, guarantee," it is practically impossible for a district judge to certify that every hour billed by an attorney was "necessary." I recognize this reality, and do not view the certification statement as guaranteeing that there was no waste, e.g., a lawyer billing for 10 hours of legal research when likely only 8 hours was needed. On the other hand, the presiding district judge is in the best position to know when a representation was "extended or complex" and that compensation in excess of the maximum is necessary. A presiding district judge also has the advantage of comparing the amounts claimed in a particular case with the amounts claimed in similar cases before him. The certification statement establishes, based on the district judge's superior vantage point, that the amounts claimed are necessary and reasonable.

2. Statement of Reasons

What constitutes a sufficiently detailed statement of reasons is in need of further explanation.

To begin, the Guidelines state that “[i]n any case in which the total compensation claimed is in excess of the statutory case compensation maximum, counsel shall submit with the voucher a detailed memorandum supporting and justifying counsel’s claim that the representation given was in an extended or complex case[] and that the excess payment is necessary to provide fair compensation.” Guidelines, § 2.22(C)(2). Much of a district judge’s burden in providing a statement of reasons should be shouldered by the counsel in providing his statement of reasons. Although it is not required, I suggest that a district judge encourage counsel to use form CJA-26 for their memoranda and require counsel to be thorough in completing this form. The detail in the counsel’s statement of reasons should be proportional to the amount claimed; substantial amounts claimed in excess of the compensation maximum should be supported by thorough reasons.

Regarding the court’s detailed statement of reasons, in 2004, when Congress set the current case compensation maximums, the compensation rate was set at \$ 75 per hour for in-court time and \$ 55 per hour for out-of-court time. The compensation rate has been adjusted many times, and recently, on May 20, 2007, the hourly rate for in-court or out-of-court representation was increased to \$94. However, there as been no corresponding change in the case compensation maximums since the maximums were set in 2004.

Thus, attorneys performing the same amount of work as in 2004 may now exceed the statutory maximum due simply to the higher billing rate. The District of Maryland has estimated that if the compensation maximum had kept pace with the adjustments in the billing rate, then the current compensation maximum would be approximately \$11,000.

Recognizing that reality, while still bound by the CJA’s and Guidelines requirement of a statement of reasons and a certification, I ask that the court’s statement of reasons be tailored as follows:

a. Amounts between \$7,000 and \$11,000

For amounts that exceed the statute’s \$7,000 case compensation maximum but that are less than the “adjusted” \$11000 maximum as reflected by the higher billing rate, I ask that the district judge submit the attached Memorandum Certifying Voucher

Payment, which is patterned from a memorandum developed by the District of Maryland. The memorandum also contains the required certification and, for the statement of reasons, incorporates by reference the detailed letter or CJA form 26 submitted by counsel. In other words, by submitting this memorandum, the counsel's statement of reasons becomes the district court's statement. Of course, this further highlights the necessity of counsel submitting a complete statement of reasons justifying the amounts in excess of the compensation maximum.

b. Amounts exceeding \$11,000

For amounts that exceed \$11,000, the district court should submit a letter or memo containing the certification and providing an independent statement of reasons for the necessity of exceeding the compensation maximum. The specificity of the statement of reasons should correspond to the amount that the voucher exceeds the compensation maximum. Obviously, many, if not most, of the reasons will come from the information provided by counsel. It is important, however, particularly for amounts that greatly exceed the compensation maximum, for the district court to provide its independent judgment about the nature of the representation and the propriety of the amount claimed.

The Guidelines state that the following criteria may be useful in determining if the excess payment is necessary to provide fair representation: responsibilities involved measured by the magnitude and importance of the case; manner in which duties were performed; knowledge, skill, efficiency, professionalism, and judgment required of and used by counsel; nature of counsel's practice and injury thereto; any extraordinary pressure of time or other factors under which services were rendered; and any other circumstances relevant and material to a determination of a fair and reasonable fee.
Guidelines, § 2.22(B)(3).

Certainly, other factors affecting the cost of the representation may include: the length of the trial, length of the representation, amount of discovery, required travel time (to court or to meet with the client), novel legal issues, need for expert or other services such as investigation or psychiatric evaluations, multiple defendant cases, and language barriers, or other difficulties with the client. This list is not meant to be exhaustive, but merely some suggestions for reasons that may be included in the court's determination that excess payment is necessary to provide fair compensation.

c. Final payments after interim payments

For those cases in which an attorney has submitted interim vouchers, I ask that the

district court include in its memo accompanying the final voucher the total amount of interim payments previously made.

B. Investigative, Expert, or Other Services / CJA-21 vouchers

The CJA sets a \$1,600 limit for investigative services. But as with attorney compensation, this maximum can be exceeded if “payment in excess of that limit is certified by the [trial] court . . . as being necessary to provide fair compensation for services of an unusual character or duration.” 18 U.S.C.A. § 3006A(e)(3); Guidelines, § 3.02. Accordingly, I ask that authorizations for investigative services be accompanied by a certification statement.

Amendments to the Criminal Justice Act - October 13, 2008

The “Judicial Administration and Technical Amendments Act of 2008,” Pub. L. No. 110-406, was enacted on October 13, 2008, and amends the Criminal Justice Act (CJA), 18 U.S.C. § 3006A, to;

(1) raise the case compensation maximums applicable to appointed private “panel” attorneys, (2) expand the authority of the chief judge of the court of appeals to delegate the approval of excess compensation vouchers of attorneys and investigative, expert, and other service providers to include senior circuit judges. The Act amends this same delegation provision in the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), recodified in part at 18 U.S.C. § 3599, with respect to investigative, expert, and other service provider excess compensation vouchers. Prior to the amendment, the CJA and AEDPA delegation was limited to active circuit judges.

The impact of this legislation is to raise the case compensation maximums, which had last been revised in December 2004 to reflect the then-prevailing hourly rate of \$90. The new maximums include:

\$7,800 for felonies at the trial court level and \$5,600 for appeal (previously \$7,000/\$5,000);

\$2,200 for misdemeanors at the trial court level and \$5,600 for appeal (previously \$2,000/\$5,000);

\$7,800 for non-capital post-conviction proceedings under 18 U.S.C. §§ 2241, 2254 or 2255 and \$5,600 for appeal (previously \$7,000/\$5,000).

In addition, the amendment to subsection (d)(2) of the CJA provides for the case maximums to increase “simultaneously” with changes in the maximum hourly compensation rate. (This obviates the need to amend the amounts in the statute itself, as had been necessary with previous statutory amendments.)

The text of the amended CJA and AEDPA provisions is appended as Attachment 1. The revised paragraphs of the Guidelines for the Administration of the Criminal Justice Act and Related Statutes (CJA Guidelines), Volume 7, *Guide to Judiciary Policies and Procedures* are included as Attachment 2.

The CJA amendment to the attorney case compensation maximums applies to cases pending on or after the date of enactment, which is the effective date of the legislation.

Specifically, the new case compensation maximums apply to a voucher submitted by appointed counsel if that person furnished any CJA-compensable work on or after October 13, 2008. The former case compensation maximums apply to a voucher submitted by appointed counsel if that person's CJA-compensable work on the representation was completed **before October 13, 2008.** These same dates govern the expanded delegation authority of the chief judge of the court of appeals.

Questions concerning the CJA amendments may be directed to the Office of Defender Services, Legal and Policy Branch Duty Attorney, on (202) 502-3030, or via email at ods_lpb@ao.uscourts.gov.

Attachments

Provisions of the Criminal Justice Act and Antiterrorism and Effective Death Penalty Act of 1996, as amended by the Judicial Administration and Technical Amendments Act of 2008 Pub. L. No. 110-406 [New language in *bold italics*]

Criminal Justice Act, 18 U.S.C. § 3006A. Adequate representation of defendants

* * *

(d) Payment for representation.—

* * *

(2) Maximum amounts.—For representation of a defendant before the United States magistrate judge or the district court, or both, the compensation to be paid to an attorney or to a bar association or legal aid agency or community defender organization shall not exceed \$7,000 for each attorney in a case in which one or more felonies are charged, and \$2,000 for each attorney in a case in which only misdemeanors are charged. For representation of a defendant in an appellate court, the compensation to be paid to an attorney or to a bar association or legal aid agency or community defender organization shall not exceed \$5,000 for each attorney in each court. For representation of a petitioner in a non capital habeas corpus proceeding, the compensation for each attorney shall not exceed the amount applicable to a felony in this paragraph for representation of a defendant before a judicial officer of the district court.

For representation of such petitioner in an appellate court, the compensation for each attorney shall not exceed the amount applicable for representation of a defendant in an appellate court. For representation of an offender before the United States Parole Commission in a proceeding under section 4106A of this title, the compensation shall not exceed \$1,500 for each attorney in each proceeding; for representation of an offender in an appeal from a determination of such Commission under such section the compensation shall not exceed \$5,000 for each attorney in each court. For any other representation required or authorized by this section, the compensation shall not exceed \$1,500 for each attorney in each proceeding. *The compensation maximum amounts provided in this subsection shall increase simultaneously by the same percentage, rounded to the nearest multiple of \$100, as the aggregate percentage increases in the maximum hourly compensation rate paid pursuant to paragraph (1) for time expended since the case maximum amounts were last adjusted.*

(3) Waiving maximum amounts.—Payment in excess of any maximum amount provided in paragraph (2) of this subsection may be made for extended or complex representation whenever the court in which the representation was rendered, or the United States magistrate judge if the representation was furnished exclusively before

him, certifies that the amount of the excess payment is necessary to provide fair compensation and the payment is approved by the chief judge of the circuit. The chief judge of the circuit may delegate such approval authority to an active *or senior* circuit judge.

* * *

(e) Services other than counsel.—

* * *

(3) Maximum amounts.—Compensation to be paid to a person for services rendered by him to a person under this subsection, or to be paid to an organization for services rendered by an employee thereof, shall not exceed \$1,600, exclusive of reimbursement for expenses reasonably incurred, unless payment in excess of that limit is certified by the court, or by the United States magistrate judge if the services were rendered in connection with a case disposed of entirely before him, as necessary to provide fair compensation for services of an unusual character or duration, and the amount of the excess payment is approved by the chief judge of the circuit. The chief judge of the circuit may delegate such approval authority to an active *or senior* circuit judge.

* * *

Antiterrorism and Effective Death Penalty Act of 1996, recodified in part in Title 18, United States Code, Section 3599

18 U.S.C. § 3599. Counsel for financially unable defendants.

(g)(2) Fees and expenses paid for investigative, expert, and other reasonably necessary services authorized under subsection (f) shall not exceed \$7,500 in any case, unless payment in excess of that limit is certified by the court, or by the United States magistrate judge, if the services were rendered in connection with the case disposed of entirely before such magistrate judge, as necessary to provide fair compensation for services of an unusual character or duration, and the amount of the excess payment is approved by the chief judge of the circuit. The chief judge of the circuit may delegate such approval authority to an active *or senior* circuit judge.

Guidelines for the Administration of the Criminal Justice Act and Related Statutes (CJA Guidelines), Volume 7, *Guide to Judiciary Policies and Procedures*

ADJUSTMENT OF THE PANEL ATTORNEY CASE COMPENSATION MAXIMUM AMOUNTS

Chapter II. Appointment and Payment of Counsel

* * *

2.22 Limitations.

* * *

B. Case Compensation Maximums

* * *

(2) Specific Proceedings.

(i) Felonies [except federal capital prosecutions].

\$7,000 **7,800** for trial court level.

\$5,000 **5,600** for appeal.

(ii) Misdemeanors [including petty offenses (class B or C misdemeanors or infractions) as set forth in subsection (a)(2)(A) of the Act].

\$2,000 **2,200** for trial court level.

\$5,000 **5,600** for appeal.

(iii) Proceedings under section 4106A of title 18, United States Code [in connection with paroled prisoners transferred to the United States].

\$1,500 **1,700** for representation before the United States Parole Commission.

\$5,000 **5,600** for appeal.

(iv) Proceedings under sections 4107 or 4108 of title 18, United States Code [for counsel and guardians ad litem providing services in connection with prisoner transfer

proceedings. See Regulations for the Appointment of Counsel Pursuant to a Prisoner Transfer Treaty, which appears at Section B of this Volume, regarding appointment of counsel or guardians ad litem under 18 U.S.C. § 4109].

\$2,000 **2,200** for each verification proceeding.

(v) **Pre-Trial Diversion.**

\$7,000 **7,800** if offense alleged by the U.S. Attorney is a felony.

\$2,000 **2,200** if offense alleged by the U.S. Attorney is a misdemeanor.

(vi) **Proceedings under section 983 of title 18, United States Code** [for services provided by counsel appointed under 18 U.S.C. § 983(b)(1) in connection with certain judicial civil forfeiture proceedings].

\$7,000 **7,800** for trial court level.

\$5,000 **5,600** for appeal.

(vii) **Non-capital Post-Conviction Proceedings under sections 2241, 2254 or 2255 of title 18, United States Code.**

\$7,000 **7,800** for trial court level.

\$5,000 **5,600** for appeal.

(viii) **Proceedings to Protect Federal Jurors Employment under section 1875 of title 28, United States Code.**

\$7,000 **7,800** for trial court level.

\$5,000 **5,600** for appeal.

(ix) **Other Representations required or authorized by the CJA.**

\$1,500 **1,700** for trial court level.

\$1,500 **1,700** for each level of appeal.

This category includes but is not limited to the following representations:

(a) **Probation Violation:**

(b) **Supervised Release Hearing** [for persons charged with a violation of supervised release or facing modification,

reduction or enlargement of a condition or extension or revocation of a term of supervised release];

(c) **Parole Proceedings under chapter 311 of title 18, U.S.C.;**

(d) **Material Witness in Custody;**

(e) **Mental Condition Hearings Pursuant to chapter 313 of title 18, U.S.C.** [with the exception of hearings pursuant to sections 4241 and 4244 of title 18, U.S.C., which are considered part of the case in chief with no separate compensation maximums applying. (A chart detailing the treatment for the purpose of compensation of representation at each hearing pursuant to chapter 313 is included as Appendix H.)];

(f) **Civil or Criminal Contempt** [Where the person faces loss of liberty];

(g) **Witness** [before a grand jury, a court, the Congress, or a federal agency or commission which has the power to compel testimony, where there is a reason to believe either prior to or during testimony, that the witness could be subject to a criminal prosecution, a civil or criminal contempt proceeding, or face loss of liberty];

(h) **International Extradition** [under chapter 209 of title 8, U.S.C.].

EXPANSION OF THE DELEGATION AUTHORITY OF THE CHIEF JUDGE OF THE COURT OF APPEALS TO APPROVE EXCESS COMPENSATION AMOUNTS

CJA Guidelines 2.22B(1)(i), 2.22B(3), 3.02A, and 6.03B

All references in the above-referenced CJA Guidelines to the chief judge of the court of appeals having authority to delegate to an “active circuit judge” the approval of vouchers in excess of the statutory maximum compensation have been revised to read an “active *or senior* circuit judge.”

