

District of Oregon Criminal Justice Act Panel Attorney Manual

Administered by
The Federal Public Defender
Updated December 2017



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I. INTRODUCTION

I. INTRODUCTION

This Manual, designed to help CJA practitioners navigate local requirements under the CJA, is only one of many sources of guidance on the Criminal Justice Act. CJA practitioners should also familiarize themselves with other CJA resources, listed in Appendix 1.

If you have questions concerning CJA-related matters, please contact the CJA Panel Office at 503.326.2123. You may also reach out to:

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II. THE CRIMINAL JUSTICE ACT: DISTRICT OF OREGON

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The Sixth Amendment to the United States Constitution guarantees the assistance of counsel for those accused of serious crimes. The Criminal Justice Act, 18 U.S.C. § 3006A, provides funding for the legal representation of individuals financially unable to obtain adequate representation. In each district, a plan exists for providing representation through private panel attorneys and federal public or community defender offices. In the District of Oregon, the Federal Public Defender administers the Criminal Justice Act Panel, with the assistance of the CJA Panel Office. The CJA Plan for the District of Oregon can be found on the website of the Federal Public Defender for the District of Oregon.

A. THE CRIMINAL JUSTICE ACT PANEL

The CJA Panel is made up of highly qualified, experienced private attorneys who have been selected to provide representation under the CJA. There are five separate panels: Portland Trial, Eugene Trial, Medford Trial, Appellate/Habeas, and Emeritus. Attorneys may serve on more than one panel. Trial and appellate/habeas panel attorneys must be willing to regularly accept appointments throughout the year. Emeritus panel attorneys are those interested in handling fewer CJA cases throughout the year.

B. APPLICATION PROCESS

A Panel Screening Committee, consisting of the Federal Public Defender, the CJA panel representative, panel attorneys, and state court judges, reviews applications for membership on the CJA Panel periodically, and at least once every four years. Prior to review, applications are made available

II. THE CRIMINAL JUSTICE ACT: DISTRICT OF OREGON

on the Federal Public Defender’s website, and announcements are made in bar association publications, legal journals, and other media. Recruitment efforts are made to establish a diverse panel and ensure that all qualified attorneys are encouraged to participate. Attorneys may contact the CJA Panel Office at any time to request notification of the next panel review.

C. CASE ASSIGNMENTS

The case assignment procedure is designed to achieve a balanced distribution of appointments and compensation among the members of the CJA Panel, and high quality representation for every defendant. The CJA Panel Office will ordinarily contact counsel on a rotational basis for case assignments, with exceptions for an attorney’s expertise, the nature or complexity of the case, unusual needs of a client, and geographical considerations.

In unusual cases and in the interests of justice, the Federal Public Defender may recommend the appointment of an attorney who is not a member of the CJA Panel to preserve continuity of representation or where other special circumstances exist. The attorney should possess such qualities as would qualify the attorney for admission to the district’s CJA Panel in the ordinary course of panel selection.

III. DUTIES OF CJA PANEL MEMBERS

III. DUTIES OF CJA PANEL MEMBERS

A. STANDARDS AND PROFESSIONAL CONDUCT

CJA panel attorneys must provide high quality representation consistent with the best practices of the legal profession and conform to the highest standards of professional conduct.

CJA panel attorneys are selected for their experience in federal court, their skills, and their reputation for excellence. Attorneys are expected to remain current with developments in federal criminal defense law, practice, and procedure. To that end, attorneys are required to:

- accept cases promptly and in sufficient number – between three and eight cases per year.
- attend trainings and continuing legal education programs sponsored by the Federal Public Defender and other programs relevant to federal criminal practice, including effective and efficient management of technology.

Attorneys are also encouraged to participate in moot courts prior to appellate arguments, and to otherwise use and contribute to resources available through the Federal Public Defender. To arrange a moot or case staffing, attorneys may contact the CJA Panel Office.

CJA panel members must notify within 30 days the Federal Public Defender when any licensing authority, grievance committee, or administrative body has taken action against them, or when a finding of contempt, sanction, or reprimand has been issued against the attorney by any state or federal court.

III. DUTIES OF CJA PANEL MEMBERS

B. CONTINUING REPRESENTATION

Once counsel is appointed under the CJA, counsel will continue the representation, including on appeal, until the court has appointed substitute counsel, the appointment is terminated, or the matter is closed. If it is in the best interests of the client, and depending on the attorney's professional skills and obligations, attorneys may move to withdraw in the district court before a notice of appeal is filed, or in the Ninth Circuit Court of Appeals after a notice of appeal has been timely filed. Attorneys should contact the CJA Panel Office *before* filing a motion to withdraw.

C. COURT APPEARANCES

Attorneys appointed under the CJA are expected to personally appear and provide zealous representation in all proceedings related to court appearances, detention and release hearings, status conferences, plea hearings, detention, substantive motions, trial, and sentencing. Associates may not appear as counsel of record, except in rare instances where counsel has been granted prior court approval, upon the recommendation of the Federal Public Defender.

D. FISCAL RESPONSIBILITY

Without compromising the quality of the representation, attorneys are encouraged to use associates, law clerks, paralegals, investigators, and other cost-effective service providers to reduce costs where feasible and appropriate. Attorneys should negotiate with experts for CJA hourly rates discounted from privately retained rates, and pursue other cost-saving measures that do not affect the quality of representation (e.g., coordinate travel with members of the defense team, arrange travel for consecutive client meetings).

III. DUTIES OF CJA PANEL MEMBERS

CJA panel attorneys are also expected to maintain a bank of standard pleadings, such as motions to continue, waivers of appearance, plea petitions, and waivers of speedy trial.

IV. CJA APPOINTMENTS

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A. APPOINTMENT

The CJA Panel Office will contact attorneys to assign cases. Once an attorney accepts a case, the Federal Public Defender submits a proposed appointment order to the court. After the court appoints counsel, the CJA Panel Office enters the appointment into eVoucher. Attorneys must be appointed by the court and entered into eVoucher in order to receive compensation for their services.

B. MOTIONS TO WITHDRAW

Counsel appointed under the CJA considering withdrawing from a case must contact the CJA Panel Office prior to filing a motion to withdraw. Counsel should complete a Substitution of CJA Counsel form (available on the website of the Federal Public Defender) to provide information about the basis for withdrawing, the nature of any conflict, an estimate of time spent and services used on the case, and a description of work product that is available to provide to substitute counsel. The CJA Panel Office will provide counsel with a notice form signed by the Federal Public Defender. Counsel should file in CM/ECF the motion to withdraw, and file ex parte in CM/ECF a declaration supporting the motion to withdraw with the signed notice form attached.

In some cases, counsel may want to consider the limited appointment of “second opinion” counsel as an alternative to a motion to withdraw, particularly where there is a difference of opinion with the client, or a breakdown of the attorney-client relationship. Counsel should submit to the

IV. CJA APPOINTMENTS

CJA Panel Office a completed Substitution of CJA Counsel form, and note the request is for second opinion counsel.

CJA counsel seeking to withdraw from a case can ordinarily expect to be paid for compensable services on the case. If the attorney is unable to provide substitute counsel with usable work product, however, the court may reduce or decline payment for some services.

C. TERMINATION

If, at any time after the appointment under the CJA, counsel obtains information that a client is financially able to make payment, in whole or in part, for legal or other services in connection with the representation, and the source of the information is not protected as a privileged communication, counsel should advise the court.

In any case in which counsel has been appointed under the CJA and the court subsequently determines the individual is financially able to obtain counsel, the court may require the person to reimburse the court for all or part of the cost of the representation.

V. CASE STAFFING

V. CASE STAFFING

CJA panel attorneys are encouraged to use investigators, interpreters, associates, law clerks, paralegals, and other cost-effective service providers to reduce costs where the appointed attorney's expertise is not required, particularly for discovery review and legal research. Appointed counsel is responsible for ensuring that services and expenses are reasonable and necessary under the CJA guidelines.

Counsel should develop a plan to divide responsibilities among defense team members so that each team member is performing duties effectively and efficiently, avoiding duplication of efforts. If there are more than two attorneys on an appointment as co-counsel or associates, no more than two attorneys may bill for the same meeting times, even if multiple attorneys have attended the meeting.

A. CO-COUNSEL

More than one attorney may be appointed to a case if the court finds that the case is extremely complex and that it is in the interests of justice to appoint an additional attorney. Appointed counsel should contact the CJA Panel Office to seek co-counsel where the nature of a case warrants the appointment.

If co-counsel is appointed by the court, each attorney prepares and submits a separate voucher. Each attorney may bill up to the case compensation maximum, and each may seek fees in excess of the case compensation maximum.

V. CASE STAFFING

B. ASSOCIATE ATTORNEYS

CJA panel attorneys are encouraged to use associates. Prior court approval is required for services by associates, whether in-house or outside appointed counsel's firm. Appointed counsel requests preapproval by filing an Auth in eVoucher. No motion is required, and the associate is not appointed by the court. Appointed counsel and associates submit separate CJA 20 vouchers.

The associate may not effectively become the primary attorney on the case; appointed counsel remains responsible for the representation. Associates may not appear in court in place of appointed counsel without prior approval of the court, upon the recommendation of the Federal Public Defender.

C. LAW CLERKS, PARALEGALS, AND LEGAL ASSISTANTS

Preapproval by the court is required for services by law clerks, paralegals, and legal assistants. Law clerks are generally law students or unbarred attorneys. Attorneys at law should be categorized as associate attorneys. Paralegals or legal assistants may only bill for services that are distinct from normal clerical support services and not for copying reports, filing documents in CM/ECF, or drafting routine letters. The hourly rate of in-house paralegals and other in-house service providers should not exceed the actual cost to the law firm.

D. CONTRACT ATTORNEYS (LEGAL ANALYSTS)

CJA panel attorneys are encouraged to use contract attorneys (legal analysts) to reduce costs in cases requiring particularized expertise, such as tax or immigration law. Attorneys must obtain prior court approval for the services of contract attorneys. Contract attorneys submit claims for compensation as service providers on a CJA 21, rather than on a CJA 20.

V. CASE STAFFING

E. INVESTIGATIVE, EXPERT, AND OTHER SERVICES

In order to provide effective representation, attorneys are encouraged to use investigators, interpreters, psychologists, litigation support personnel, and other forensic experts. Counsel appointed under the CJA may request authorization to obtain these services.

CJA funds may also be available to pro se defendants and to individuals who have retained counsel, but cannot also afford the cost of investigation or other services.

F. RELATIVES

Prior to engaging any relative for CJA services, attorneys should first notify the CJA Panel Office of the nature of the relationship and potential services.

G. ENGAGEMENT LETTERS

CJA panel attorneys are encouraged to use written engagement letters with service providers. The letter should include the hourly rate, the authorized compensation amount, and the requirement for contemporaneous timekeeping. Engagement letters are potentially discoverable. A sample is included in Appendix 8.

VI. COMPENSATION AND PRIOR COURT AUTHORIZATION

VI. COMPENSATION AND PRIOR COURT AUTHORIZATION

A. CASE BUDGETING

Case budgets in unusually expensive representations help ensure that defense counsel receive resources necessary to effectively represent clients. Budgets help the courts assess reasonableness, monitor fairness, and responsibly oversee the expenditure of public funds. Budgets are not set in stone, and may be amended in the event of unexpected case needs.

Budgets are required in death-eligible prosecutions and capital habeas cases. Within 30 days of appointment, CJA counsel should contact the CJA Panel Office for assistance in budgeting.

Budgeting is also strongly encouraged in non-capital high cost cases – where total case costs are expected to exceed 300 times the prevailing CJA panel attorney non-capital hourly rate, rounded up to the nearest thousand (currently, about \$40,000). Counsel should contact the CJA Panel Office for assistance in budgeting early in the representation, and no later than when total case costs are \$25,000 and are anticipated to exceed \$40,000. Budgets are typically submitted in phases, and reasonable time spent preparing a budget is compensable. A tip sheet on preparing budgets is available on the Federal Public Defender’s website.

B. ATTORNEY COMPENSATION

1. Hourly Rate and Case Compensation Limits

Hourly rates for CJA panel attorneys are set by the Judicial Conference and are generally adjusted each year, depending on the availability of funds. The new rates apply for services performed on or after the effective date.

VI. COMPENSATION AND PRIOR COURT AUTHORIZATION

The CJA contains waivable case compensation maximum amounts for the various types of representations. These limits do not apply in capital cases. Expenses do not apply towards statutory maximums. Attorney hourly rates are set forth in Appendix 2; statutory case compensation maximums in Appendix 4.

2. Exceeding Case Compensation Limits

Circuit approval is required to exceed these limits. The court may approve attorneys' fees in excess of statutory case compensation limits to provide fair compensation in cases involving extended or complex representation.

If counsel's fees exceed the case compensation maximum in a non-budgeted case, counsel must submit a declaration with the voucher. The declaration must contain detail sufficient to justify a finding that the case involves extended or complex representation, and that the amount is necessary to provide fair compensation. The declaration should not contain confidential information or work product.

3. Compensable Services

- **Budgeting and Voucher Preparation**
Reasonable time spent drafting budgets and authorizations is compensable. Time spent preparing attorney vouchers and declarations for excess compensation is *not* compensable. Reasonable time spent drafting expert funding requests and reviewing expert vouchers is compensable.
- **Travel**
Reasonable time spent on travel authorizations and travel time itself is compensable. Time spent making travel arrangements is not compensable.

VI. COMPENSATION AND PRIOR COURT AUTHORIZATION

- **Notices of Electronic Filing**

Time spent downloading, reviewing, renaming, saving, printing, or forwarding a Notice of Electronic Filing (“NEF”) is not compensable.

Reading attached substantive ECF documents is compensable if counsel notes on the voucher which ECF document was reviewed.

Counsel should aggregate time spent during the day for similar tasks taking less than six minutes each, to ensure that double billing of time does not occur. A sample of aggregated time on ECF review is available at Appendix 7.

- **Transferring Case to Appellate or Successor Counsel**

Time spent transferring a case to appellate or successor counsel, including meeting with appellate counsel and reviewing the file, is compensable.

C. INVESTIGATOR, EXPERT, AND OTHER SERVICE PROVIDER COMPENSATION

Funds for investigative, expert, and other services necessary for adequate representation are available under the CJA. In order to provide effective representation, attorneys are encouraged to use investigators, interpreters, psychologists, litigation support personnel, and other forensic experts. Attorneys must obtain court approval for expert services *before* services are rendered.

1. Hourly Rates and Case Compensation Limits

The District of Oregon has approved standard hourly rates for certain experts, available at Appendix 3. Some service providers, such as bilingual investigators, may qualify for an increased hourly rate if they provide

VI. COMPENSATION AND PRIOR COURT AUTHORIZATION

multiple types of services or have specialized skills relevant to services on a specific case. Attorneys should contact the CJA Panel Office regarding requests for rate increases.

The Ninth Circuit has also approved a range of hourly rates for experts. Current ranges are listed in Appendix 3. Within these ranges, attorneys should negotiate the lowest reasonable hourly rate. Courts may approve higher rates than the presumptive maximum for good cause. Factors include the uniqueness of the service or the expert; the expert's education, training, or specialization; a lack of availability of this or similar experts; the complexity of the case; and any time limitations on the case that may affect how quickly the service needs to be completed.

The current case compensation maximum for each type of service provider is \$2,500. Expenses do not apply towards the statutory maximum. A full list of service provider types is available in eVoucher in Box 14 of an Auth request and in CJA 21 vouchers.

2. Interpreters: Special Rules

Interpreters are an integral and valued part of effective representation of CJA clients. Special rules and rates apply to interpreters in the District of Oregon, and differ from the Ninth Circuit policies. For a detailed description, please see Appendix 5. Generally, interpreters are compensated for actual time spent on services, except that interpreters may bill for two hours for services requiring over 30 minutes but less than two hours. This exception may only be used once per day. Billing tips for interpreters can be found in Appendix 6 (and also available on the Federal Public Defender's website).

Attorneys should make every effort to avoid cancelling an appointment with an interpreter on less than 24 hours' notice. Should that occur,

VI. COMPENSATION AND PRIOR COURT AUTHORIZATION

interpreters can bill CJA for any actual out-of-pocket expenses and for the actual time expended to get to and from the appointment.

Funding for Spanish-language services is not associated with a particular interpreter, and can be used by any Spanish-language interpreter. Funding requests require a simple declaration containing the amount of funds requested and a statement that the client and the attorney do not both speak Spanish.

3. Prior Court Authorization Required

Attorneys must obtain court approval for expert services *before* services are rendered. Attorneys are responsible for keeping track of all CJA-funded expert hours, and for advising experts, in writing, the details of an authorization. If counsel does not obtain preapproval for the expert, the court may not approve compensation. Experts should keep track of approved funding, and notify counsel in writing of any need for additional funds.

Funds are automatically authorized in the following instances:

- **Standing Order 2017-5: \$2,500 Limit**
This Order authorizes the use of specific types of service providers – investigators, interpreters, paralegals, psychologists, and litigation support – up to the statutory case compensation maximum, currently \$2,500, per type of service. This order acts as an initial authorization.
- **Cumulative Case Total: \$800 Limit**
CJA panel attorneys may obtain other services necessary for representation up to a total case cost of \$800 without further authorization. All fees of all service providers on a case count toward the \$800 limit.

VI. COMPENSATION AND PRIOR COURT AUTHORIZATION

- **Circuit Review: Over \$2,500**

If services on a case are anticipated to exceed the current case compensation maximum, currently \$2,500, the court may authorize funds in excess of the statutory maximum if necessary to provide fair compensation for services of an unusual character or duration. Excess funds must be preapproved by the circuit reviewing judge.

To obtain preapproval for expert fees, counsel must file an Auth in eVoucher identifying the expert, the total funds requested, the hourly rate, and the total number of hours. Counsel should attach a declaration containing a brief case background, the need for the services, a description of the work to be accomplished, details on the funds requested, and efforts by counsel to negotiate rates and otherwise reduce costs. If an expert has started working on a case pursuant to Standing Order 2017-5, the declaration should also include the amount of fees or hours incurred to date and a description of services already provided, and those to be anticipated.

The declaration should not contain sensitive confidential information or work product. Boilerplate declarations are insufficient. If counsel files a request for additional funds, the declaration should also include a summary of completed and anticipated services.

4. Nunc Pro Tunc Requests

Nunc pro tunc requests for services are disfavored. In the rare instance when prior court approval is not feasible, attorneys must file an Auth in eVoucher and include a declaration detailing the nunc pro tunc date, why necessary services could not wait for preapproval, and that the interests of justice weigh in favor of payment. A general assertion of “competing professional demands” does not establish good cause; a detailed explanation

VI. COMPENSATION AND PRIOR COURT AUTHORIZATION

of those demands is required. Nunc pro tunc requests without sufficient explanation will be returned to counsel for additional detail.

Exception: if an expert's final bill exceeds the total authorized amount by less than \$1,000, counsel must instead submit a declaration with the final voucher detailing why, in the interests of justice, the services were necessary. If an expert's final bill exceeds the total authorized amount by *more* than \$1,000, before the expert may submit the voucher for compensation, counsel must submit a nunc pro tunc Auth in eVoucher and receive court approval. Final bills exceeding the authorized amount by more than \$1,000 will be returned unless the court has already approved a nunc pro tunc Auth in eVoucher.

VII. BILLING AND VOUCHER REVIEW

VII. BILLING AND VOUCHER REVIEW

All requests for CJA compensation and reimbursement of expenses in the District of Oregon must be submitted through eVoucher. Forms and instructions can be found on the eVoucher site. All submissions in eVoucher are *ex parte*. A Frequently Asked Questions section is available on the eVoucher website.

To set up an eVoucher account for yourself or a vendor, please complete an eVoucher new vendor form (available on the website of the Federal Public Defender) and submit to the CJA Panel Office. Any vendor changes of address or tax identification numbers should be submitted on a new vendor form.

Attorneys are responsible for creating a CJA 21 voucher for each service provider and assigning the voucher to the service provider for entry of services and expenses. Attorneys must review and certify the accuracy and thoroughness of the voucher in a timely manner prior to submission. Attorneys should screen their eVoucher queue for pending submissions.

eVoucher Forms			
Provider	Case Type	Form	Purpose
Attorney	Non-Capital & Capital	CJA 26	Budget
Attorney	Non-Capital	CJA 20*	Attorney bill
Attorney	Capital	CJA 30	Attorney bill
Service Provider	Non-Capital & Capital	Auth	Expert request
Service Provider	Non-Capital	CJA 21	Expert bill
Service Provider	Capital	CJA 31	Expert bill
Court Reporter	Non-Capital & Capital	Auth 24	Transcript request
Court Reporter	Non-Capital & Capital	CJA 24	Court reporter bill

***accompanied by a CJA 20 worksheet (available on the Federal Public Defender's website)**

VII. BILLING AND VOUCHER REVIEW

A. CONTEMPORANEOUS RECORDS

Attorneys and experts are required to maintain contemporaneous time records for all CJA work. Information in eVoucher timesheets is sufficient, provided the information is timely entered and based on contemporaneous notes. It is advisable to maintain a record outside of eVoucher, as well. Records are subject to audit by the Administrative Office of the U.S. Courts and must be retained for three years after approval of the final voucher in a case.

B. SPECIFICITY IN BILLING

Time entries should contain sufficient detail to allow for a meaningful review and determination of reasonableness. There should be an entry for each task; multiple tasks cannot be bundled into a block of time. See Appendix 7 for more detail.

- Discovery review: include some quantitative descriptors, such as number of pages, bates stamp ranges, length of audio or video recordings, as well as the nature of the materials (e.g., transcripts, investigative reports, medical records, etc.).
- Legal research: describe the issue and/or purpose of the research.
- Conferences and phone calls: identify the general topic and the participants; initials or other identifiers should be used for witnesses.
- Court filings: identify documents by name or ECF numbers when preparing or reviewing court filings

VII. BILLING AND VOUCHER REVIEW

C. ACTUAL AND AGGREGATE TIME

The CJA allows compensation for time actually expended by counsel and experts. All billing must be done in tenths of an hour. Multiple services of less than six minutes in a calendar day should be combined, rather than billed as individual .1 increments. Multiple .1 increments spent on the same type of services in a calendar day should also be aggregated (e.g., emails, phone messages). The aggregate amount should be no greater than the actual time expended. See Appendix 7 for an example.

D. EXCESS HOURS IN A DAY

If an attorney or expert bills more than twelve (12) hours in a single day when not in trial, sufficient justification must be provided with the voucher. Without such justification, the voucher may be returned for additional information.

E. OVERLAPPING TIME

When attorneys or experts spend time that benefits more than one CJA client (such as driving to the jail to see multiple clients or conducting research on a common issue in two cases), the time should be split between the CJA clients. A cross-reference should appear on each voucher; experts should omit identifying details in the cross-reference to preserve confidentiality.

If for some reason the time cannot be split between clients, time may be billed to one client, but supporting documents should explain the deviation and include a cross-reference on each voucher.

VII. BILLING AND VOUCHER REVIEW

F. TIMING & FREQUENCY OF BILLING

Interim billing is encouraged, as it allows for review of vouchers on a timely and ongoing basis. Attorneys should submit their first voucher when it approaches the case compensation maximum, or approximately \$10,000. Subsequent vouchers should be submitted in \$4,000 to \$10,000 increments. If the total case costs are \$25,000 and are anticipated to exceed \$40,000, attorneys must contact the CJA Panel Office regarding case budgeting.

G. FINAL VOUCHERS

Attorneys and experts are expected to submit final vouchers no later than 90 days from the entry of the judgment and commitment order or other disposition. If a representation is terminated prior to the disposition of a case, attorneys should submit final vouchers within 90 days of the conclusion of the representation. Attorneys must timely advise experts of the disposition of a case, and should endeavor to submit all outstanding vouchers in a case at the same time.

If counsel is required to do additional work on a case after submitting a final voucher, counsel should contact the CJA Panel Office to determine whether a supplemental voucher with a declaration describing the need for and nature of the additional services is sufficient; occasionally, a new representation is required.

H. UNTIMELY VOUCHERS

Attorneys risk not being paid if vouchers are untimely. Vouchers submitted after 90 days but within one year of the conclusion of the case require a memorandum justifying the delay. Attorneys must obtain prior

VII. BILLING AND VOUCHER REVIEW

court authorization before submitting a voucher over a year after the case concluded. Contact the CJA Panel Office for assistance.

I. VOUCHER REVIEW

Vouchers are reviewed for conformity with CJA guidelines, as well as accuracy, specificity, and reasonableness. The CJA Panel Office conducts an initial audit by comparing vouchers, verifying in court time, and confirming pleadings using CM/ECF or PACER. The CJA Panel Office also preliminarily evaluates whether services and expenses are justified by the nature of the case and consistent with the funding request.

Vouchers are then subject to additional review by the Federal Public Defender and the courts. Reasonableness of claims for compensation is determined by the district court, and, if the bill exceeds the statutory maximum, the circuit reviewing judge. Upon approval and certification of a voucher, payment is made by the Administrative Office of the U.S. Courts.

J. VOUCHER REDUCTION

If a court determines that a claim for compensation should be reduced, the CJA Panel Office will provide counsel with (1) prior notice of the proposed reduction with a brief statement of the reason for it, and (2) an opportunity to address the matter. The CJA Panel Office or the court may also communicate informally with counsel about billing questions. No notice is required for modifications of under \$100, if the reduction is based on mathematical or technical errors.

VIII. TRAVEL

VIII. TRAVEL

Attorneys must seek prior court authorization, at least two weeks in advance of the proposed travel, for all air travel, any travel with more than one overnight stay, and any travel over 500 miles by privately owned vehicle. Attorneys must request approval by filing a travel authorization in eVoucher. (A tip sheet containing detailed instructions on how to file travel requests is available on the Federal Public Defender's website.) National Travel Service (800-445-0668) is available to provide cost estimates and book approved travel. Attorneys should negotiate with experts for lower hourly rates for travel.

A. TRAVEL-RELATED COMPENSABLE TIME

- Travel authorization: time spent drafting a travel authorization is compensable.
- Travel arrangements: time spent making travel arrangements is not compensable
- Travel time: time spent on necessary and reasonable travel is compensable, including time spent in or awaiting transit. When possible, case work should be done in transit – this time may be billed at the full rate, rather than the reduced travel rate.

B. TRAVEL EXPENSES

Actual travel expenses incurred (such as travel costs, meals, and lodging) are reimbursable -- not a per diem. Attorneys should refer to the GSA travel per diem webpage as a guideline for reasonableness of lodging and daily expenses.

VIII. TRAVEL

Line item receipts for travel-related expenses are required for reimbursement, and must be attached to vouchers submitted once travel is completed. Travelers may seek reimbursement for their own expenses only. Meals for travel longer than twelve hours are reimbursable. Alcoholic beverages and tips are not reimbursable.

C. TRAVEL BY AIR

Travel arrangements should be made through National Travel Service (800-445-0668) after court has approved the travel. Inform National Travel Service that the airfare should be paid by the U.S. Courts- Oregon CJA Travel account. The travel agency will send the itinerary directly to the traveler. CJA will pay National Travel Service directly, so there is no out-of-pocket cost to travelers for the airfare.

Travelers should seek the most economical, fully refundable government fare. Actual travel time may be considered when determining whether a direct flight is most economical. Travel arrangements other than airfare (e.g., car rental, hotels, etc.) can also be made by National Travel Service, but travelers must provide a credit card to secure the reservation.

D. TRAVEL BY PRIVATELY OWNED VEHICLE

Travel within the district or within 500 miles, and with only one overnight stay, does not require prior court authorization. Mileage must be claimed at the government rate. Document the date, destination (use the general location, rather than a specific address), and the number of miles traveled. Parking fees, ferry fares, and bridge, road, and tunnel tolls may also be reimbursed.

VIII. TRAVEL

E. CAR RENTAL AND GROUND TRANSPORT

Car rental is encouraged where the cost will be less than that for mileage by privately owned vehicle. Car rental must be authorized in advance when combined with air travel. Other ground transportation such as taxis, Uber, Lyft, shuttles, and public transit do not require prior court authorization, and should be claimed on an actual expense basis.

F. CLIENT TRAVEL

Clients are responsible for their own travel costs. At the beginning of a case, attorneys should encourage clients to prepare to pay for their own transportation, meals, and lodging. 18 U.S.C. § 4285.

Attorneys may seek an order from the court directing the U.S. Marshals Service to provide clients with transportation and expenses incurred on the way to (but not from) the hearing.

In cases of unexpected financial hardship, attorneys may seek court authorization for a client's return travel by submitting a travel request in eVoucher for the client. CJA funds for client travel must be approved by the court prior to travel. The request must include a declaration detailing the hardship. Attorneys are encouraged to schedule expert consultations and client meetings to coincide with court hearings whenever possible.

Client lodging and expenses are not reimbursable except in cases of extreme financial hardship, and only if U.S. Pretrial Services has been contacted in advance.

IX. EXPENSES

IX. EXPENSES

A. GENERALLY

Reasonably incurred out-of-pocket expenses may be reimbursed. All requests for reimbursement should be itemized and documented; vouchers may be returned for insufficient documentation or itemization.

Receipts are required for:

- individual expenses over \$50
- travel meals (reimbursable for travel over 12 hours)
- computer-assisted legal research fees and costs
- phone charges in excess of \$50 per month
- postage in excess of \$50 per incident
- messenger, courier, and express mail costs (discouraged absent urgent need)
- non in-house photocopies

B. GENERAL OFFICE OVERHEAD: NOT REIMBURSABLE

Attorneys are expected to use their own office resources for work on CJA cases. Expenses such as personnel costs, rent, phone service, and secretarial help are not compensable. A good guideline is that if a service would not be billed to a client in a retained matter, then it would not be reimbursable under CJA guidelines. Unusual or extraordinary expenses of these types may be considered “services necessary for an adequate defense.”

IX. EXPENSES

C. COPIES AND PRINTING

The most fiscally responsible method of copying should be used. Coordination among counsel for co-defendants is encouraged. Any commercial copying must be accompanied by a receipt. Printing is not reimbursable.

D. PHONE CALLS

Long-distance calls are reimbursable. If the amount exceeds \$50, the phone bill should be included with the voucher, with the calls highlighted or otherwise indicated.

E. POSTAGE

Postage is reimbursable. Any mailing expense over \$50 must be accompanied by a receipt.

F. TRANSCRIPTS

Attorneys may not pay directly for transcripts of criminal court hearings and then seek reimbursement from CJA funds. Attorneys must contact the CJA Panel Office, which will order transcripts through an Auth 24 in eVoucher. The court reporter will then be able to bill on a CJA 24 in eVoucher. A tip sheet on transcripts is available on the Federal Public Defender's website.

The cost of transcribing depositions in criminal cases is the responsibility of the Department of Justice, except when the witness is a defense expert. Other types of transcriptions are not reimbursable expenses; counsel must seek prior court authorization so the transcription service provider can submit a request for compensation for services on a CJA 21 in eVoucher. Attorneys should contact the CJA Panel Office with questions about transcripts.

IX. EXPENSES

G. PERSONAL ITEMS: NOT REIMBURSABLE

Time spent on services of a personal nature that cannot be considered legal representation is not reimbursable (e.g., arranging for the placement of the client's minor children, disposition of a client's property, providing legal assistance in matters unrelated to the criminal case, etc.). CJA counsel cannot be reimbursed for money spent on personal items for a client, such as food, clothing, or haircuts.

H. LEGAL RESEARCH

1. Commercial Computer-Assisted Legal Research

Attorneys should seek prior court approval for the use of commercial legal research services by filing an Auth in eVoucher, with a declaration explaining the need for the services and an estimate of the charges.

2. Computer-Assisted Legal Research

Reasonable computer-assisted legal research costs are reimbursable. Counsel must attach a copy of the bill or receipt, regardless of the amount, to the voucher. If the amount claimed is more than \$500, counsel should include a brief statement of justification.

3. PACER

CJA panel attorneys need to apply for a no-fee account for CJA work by contacting the PACER Service Center at 1-800-676-6856, and should not be invoiced for PACER fees or seek reimbursement through the CJA. Certain service providers may also qualify for a no-fee PACER account. Contact the CJA Panel Office for assistance.

IX. EXPENSES

I. FACT WITNESS EXPENSES: NOT REIMBURSABLE THROUGH THE CJA

Witness fees, travel costs, and expenses for service of subpoenas on fact witnesses are not payable out of CJA funds. These are governed by Rule 17 of the Federal Rules for Criminal Procedure and 28 U.S.C. §1825, and are paid by the Department of Justice. Contact the CJA Panel Office to coordinate the submission of DOJ 3 fact witness vouchers and accompanying CJA attorney witness declarations.

J. CONTINUING LEGAL EDUCATION: NOT REIMBURSABLE

Expenses associated with continuing legal education are not reimbursable.

K. EXPERT SERVICES: NOT REIMBURSABLE

Investigators, experts, and other service providers must submit claims for compensation in eVoucher on a CJA 21. Counsel may not pay experts directly and then seek reimbursement from CJA on a CJA 20.

X. RETAINED COUNSEL AND CJA EXPENDITURES

X. RETAINED COUNSEL AND CJA EXPENDITURES

A. RETAINED COUNSEL SEEKING CJA FUNDING FOR SERVICE PROVIDERS

Occasionally, retained counsel will find that the unexpected cost of service providers exceeds the financial capability of a represented party who has paid a retainer or who can otherwise afford to pay for counsel. Under 18 U.S.C. § 3006A(e), a retained attorney is authorized to apply in advance for funds to pay costs of non-attorney services in these circumstances. The retained attorney must submit to the CJA Panel Office a letter explaining the expected proposed expenses and the financial circumstances that cause the defendant to be unable to pay for the services, along with a copy of the retainer agreement between counsel and client, a statement of the number of hours worked by the attorney, and a CJA 23 affidavit completed by the client.

The Federal Public Defender will review the fee arrangement, the nature of the proposed expenses, and the cause of the hardship, and then make a recommendation to the court. By regulation, if the court determines that the fee arrangement is unreasonable or was “made in gross disregard of the defendant's trial expenses,” the court may decline to provide compensation and may instead order the retained attorney to pay needed costs and expenses out of the retainer fees. *Guide*, Vol. 7A, § 310.10.20. Generally, expenses that should have been anticipated at the outset of the representation will not be covered under the CJA until the retained attorney’s rate of compensation approaches the hourly rate for CJA panel work (\$140 per hour as of March 23, 2018).

X. RETAINED COUNSEL AND CJA EXPENDITURES

B. RETAINED COUNSEL SEEKING CJA FUNDING FOR ATTORNEY FEES

If retained counsel undertakes a representation but later discovers that the client is unable to pay the retainer as agreed, or that the costs of the representation unexpectedly exceed the agreed amount of the retainer or fees, the attorney can contact the Federal Public Defender and the CJA Panel Office to determine if provisional acceptance on the CJA Panel or out-of-rotation appointment may be available.

Before making a recommendation to the court, the Federal Public Defender will review the fee arrangement, the hours expended and expenses paid, the unexpected nature of the financial hardship, the attorney's qualifications and history of CJA work compared to others on the CJA panel, the need for continuity of counsel, and the potential cost to the CJA of the appointment. Generally, if the Office of the Federal Public Defender does not have a conflict and the potential costs of the representation are high, the court may allow retained counsel to withdraw and will appoint the Federal Public Defender to undertake the representation. In other circumstances, the court may allow the retained attorney to withdraw and appoint a CJA panel attorney to complete the representation. If the benefit of continuity of counsel outweighs other concerns, the court may agree to convert the retained counsel's appearance to a court-appointed representation under the CJA, provided that counsel's unpaid hours effectively have reduced the rate of past hourly compensation to a level approaching the rate for CJA panel work.

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XI. APPENDIX

1. APPENDIX 1 – CJA RESOURCES

- **District of Oregon Federal Public Defender website**
<http://or.fd.org/>
- **District of Oregon Federal Public Defender: CJA page**
<http://or.fd.org/content/criminal-justice-act>
- **District of Oregon CJA Plan**
<http://or.fd.org/sites/or.fd.org/files/pdfs/District%20of%20Oregon%20CJA%20Plan%202013.pdf>
- **District of Oregon CJA Attorney Manual**
<http://or.fd.org/content/criminal-justice-act>
- **Defender Services Office website**
<https://www.fd.org/>
- **Ninth Circuit website**
<https://www.ca9.uscourts.gov/attorneys/>
- **Criminal Justice Act, 18 U.S.C. § 3006A**
<https://www.law.cornell.edu/uscode/text/18/3006A>
- **CJA Guidelines, Volume 7, Guide to Judiciary Policy**
<http://www.uscourts.gov/rules-policies/judiciary-policies/criminal-justice-act-cja-guidelines>
- **Judicial Council of the Ninth Circuit CJA Policies and Procedures**
<http://cdn.ca9.uscourts.gov/datastore/uploads/general/Circuit%20CJA%20Policies%20Effective%2010-20-16.pdf>
- **National CJA Voucher Reference Tool**
<http://cjaresources.fd.org/cjaort/index.html>
- **United States Sentencing Commission**
<http://www.ussc.gov/>

XI. APPENDIX

2. APPENDIX 2 – ATTORNEY HOURLY RATES

For services by appointed counsel on or after March 23, 2018:¹	
A. NON-CAPITAL CASES	
Lead Counsel	\$140
Co-Counsel	\$140
Associate Counsel	\$75 – \$115
B. CAPITAL HABEAS CASES	
Learned Counsel ²	\$165 – \$188
Co-Counsel (other than co-lead)	\$145 – \$165
Associate Counsel ³	\$95 – \$125
C. CAPITAL-ELIGIBLE PROSECUTIONS	
Lead Counsel	\$188
Co-Counsel	\$188
Associate Counsel	\$95 – \$125

¹ Consult CJA Guidelines § 230.16 and § 630.10.10 for the maximum hourly rates paid to capital and non-capital counsel for services performed prior to March 23, 2018.

² The maximum rate is reserved for learned counsel who have substantial experience and skill in federal capital habeas corpus proceedings.

³ The hourly rate authorized for associate counsel in both capital and non-capital cases should be based on years of experience as a licensed attorney.

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3. APPENDIX 3 – SERVICE PROVIDER HOURLY RATES (9TH CIR.)

Investigator ¹	\$55 – \$85 (Oregon: \$75 standard; \$85 specialized)
Paralegal ²	\$35 – \$60 (Oregon: \$50 standard; \$60 specialized)
Law Student	\$15 – \$25
Legal Analyst/Consultant Attorney	\$75 – \$100
Mitigation Specialist	\$75 – \$100 (\$55 for record collection)
Attorney Expert – Capital Case	\$185
Attorney Expert – Non-Capital Case	\$140
Litigation Support Expert	\$65 – \$140
Psychiatrist (M.D.)	\$250 – \$375
Neurologist (M.D.)	\$250 – \$375
Other Medically-licensed Expert (M.D., D.O.)	\$250 – \$375
Neuropsychologist (with Ph.D.)	\$200 – \$350
Psychologist (with Ph.D.)	\$150 – \$300
Accountant	\$150 – \$275
Audio, Video, or Photo Analyst	\$100 – \$200
Ballistics/Firearms Expert	\$150 – \$250
Chemist	\$100 – \$250
DNA	\$150 – \$250
Fingerprint Analyst	\$100 – \$125
Forensic Computer/Cellphone Analyst	\$150 – \$250
Gang Expert	\$100 – \$200
Handwriting Analyst	\$100 – \$125
Jury Consultant	\$150 – \$225
Interpreter/Translator	\$25 – \$75 (Oregon: \$75 if federally certified Spanish-language; \$60 if not federally-certified)
Document Translation ³	16.5 cents per word (9th Cir.) 20.0 cents per word (OR Spanish-language)

¹ Investigators at the maximum rate should have foreign language skills, a high level of investigative expertise in the type of crime alleged, specialized case skills, or experience conducting investigations in a significant number of federal cases, etc.

² Paralegals appointed at the maximum rate should have foreign language skills, discovery database management expertise, or subjective coding experience in at least two prior federal cases or complex civil litigation, etc.

³ Rate based on those prescribed by the United States Department of State, Office of Language Services, Translation Division.

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4. APPENDIX 4 – STATUTORY MAXIMUMS

ATTORNEY CASE COMPENSATION MAXIMUMS

For representations in which work is performed on or after March 23, 2018:	
Felony	\$10,900 for trial court level \$7,800 for appeal
Misdemeanors	\$3,100 for trial court level \$7,800 for appeal
Non-capital post-conviction proceedings under 28 U.S.C. § 2241, § 2254, or § 2255	\$10,900 for trial court level \$7,800 for appeal

SERVICE PROVIDER CASE COMPENSATION MAXIMUMS

For representations in which services are performed on or after January 1, 2016:	
Non-capital cases	\$2,500 (per individual authorization, exclusive of expenses reasonably incurred)
Capital cases	\$7,500 (applicable to total payments for investigative, expert, and other services in a case, not to each service individually)

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5. APPENDIX 5 – INTERPRETER POLICIES

(effective May 15, 2017)

- Attorneys are strongly encouraged to use the services of federally-certified interpreters when possible.
- Changes from 2011 policies
 - Abolish full/half day rates for Spanish-language out-of-court interpreting.
 - Increase hourly rates.
- Out of court interpreter services
 - Spanish
 - Federally-certified: \$75 per hour
 - Non-federally certified: \$60 per hour
 - Non-Spanish: negotiate reasonable rate
- Document translation
 - Spanish: \$0.20 cents per word
 - Non-Spanish: negotiate a reasonable rate
- Audio Transcription and Translation:
 - Spanish
 - Federally-certified: \$75 per hour
 - Non-federally certified: \$60 per hour
 - Non-Spanish: negotiate reasonable rate
- Thirty Minute Rule/Two Hour Minimum (one 2h minimum per day)
 - Services up to and including 30 minutes: bill for actual time spent
 - Services over 30 minutes but under two hours, bill for two hours (including travel)
 - Services over two hours: bill for actual time spent
- General guidelines
 - Authorization required for combined services over \$2,500
 - Bill in six-minute increments (tenths of an hour)
 - Only one two-hour minimum per day, even for multiple clients
 - Mileage is reimbursable
- Cancellation Policy
 - Interpreters are an integral and valued part of effectively representing financially-eligible defendants. Every effort should be made to avoid less than 24 hours' notice of a cancelled interpreter appointment. Should that occur, the interpreter can bill CJA for any actual out-of-pocket expenses and for the actual time expended to get to and from the appointment.

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6. APPENDIX 6 – INTERPRETER BILLING

Due to new CJA policies and procedures adopted by the Ninth Circuit, Spanish-language interpreters in the District of Oregon must bill in six-minute increments (tenths of an hour) for CJA services on or after on May 15, 2017. For services provided prior to May 15, 2017, bill at the half/full day rate.

The District of Oregon permits a two-hour minimum for services (including travel time) over 30 minutes and under two hours. The two-hour minimum may only be reimbursed once per day, even if multiple clients are seen. Services below 30 minutes and over two hours must be billed according to actual time spent. Travel time should be separated onto another line in eVoucher except when included in a two- hour minimum.

Example of a CJA 21 entry for services on or after May 15, 2017:

Date	Description	Units	Rate	Amt
05/15/2017	round trip travel time to Specific Jail	1.7	\$75.00	\$127.50
05/15/2017	meeting with client and attorney.	1.6	\$75.00	\$120.00
05/17/2017	translation of attorney letter to Client. 398 English words.	398.0	\$0.20	\$79.60
05/26/2017	2 HR MIN. 0.7 spent in round trip travel and 0.4 spent for investigator phone call with witness from attorney's office.	2.0	\$75.00	\$150.00
05/28/2017	Follow up call between investigator and witness.	0.3	\$75.00	\$22.50

Minutes	Tenths
0-3	.0
3-6	.1
7-12	.2
13-18	.3
19-24	.4
25-30	.5
31-36	.6
37-42	.7
43-48	.8
49-54	.9
55-60	1.0

Rates

Spanish-language federally certified interpreter: \$75/hr

Spanish-language non-federally certified interpreter: \$60/hr

Document translation: \$0.20/English word

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7. APPENDIX 7 – SPECIFICITY IN TIMESHEETS

PROPER CLASSIFICATION OF SERVICES (NO BUNDLING):

Do this...

Date	Service	Time	Description
4/5/16	Interviews and Conferences	1.6	Met with AUSA (.4); phone call with client (.4); met with client at jail (.8)
4/5/16	Obtain/Review Recs	3.2	Reviewed 302s re: Count 1 (Bates Nos. 001-225)
4/5/16	Legal Research	1.5	Legal research for motion to suppress

Not this...

Date	Service	Time	Description
4/5/16	Interviews and Conferences	4.1	Met with AUSA (.4); phone call with client (.8); reviewed 200 pages of wiretap transcripts (Bates Nos. 220-420) (1.0); met with client at jail (.4); legal research for motion to suppress (1.5)

DETAILED TASK DESCRIPTIONS:

Do this...

Date	Service	Time	Description
4/5/16	Travel Time	1.0	Traveled by private car to locate and meet with two possible eye-witnesses (W1 and W2) in Salem, OR (includes travel to and within Salem to two separate residences)
4/5/16	Interviews and Conferences	1.6	Interviewed two possible eye-witnesses (W1 and W2) in Salem, OR, at their separate residences
4/8/16	Obtain/Review Recs	1.5	Reviewed 200 pages of wiretap transcripts (Bates Nos. 220-420)
4/17/16	Legal Research	5.2	Researched whether the search of client's car without a warrant was unlawful; drafted motion to suppress (Doc. 112)
4/20/16	Obtain/Review Recs	2.0	Reviewed cell site data, take notes, and draft timeline. Approx 150 pages of cell site discovery (no bates numbers).

Not this...

Date	Service	Time	Description
4/5/16	Travel Time	1.0	Travel to Fresno, CA
4/5/16	Interviews and Conferences	1.6	Witness interviews
4/8/16	Obtain/Review Rcds	1.5	Reviewed discovery
4/17/16	Legal Research	5.2	Legal research and writing
4/20/16	Obtain/Review Rcds	2.0	Reviewed discovery

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APPENDIX 7 – SPECIFICITY IN TIMESHEETS (continued)

AGGREGATE ECF DOCUMENT REVIEW:

Do this...

Date	Service	Time	Description
4/5/16	Obtain/Review Recs	.3	Reviewed multiple ECF filings (Doc. 2-9)

Not This....

Date	Service	Time	Description
4/5/16	Obtain/Review Recs	.1	ECF document review
4/5/16	Obtain/Review Recs	.1	ECF document review
4/5/16	Obtain/Review Recs	.1	ECF document review
4/5/16	Obtain/Review Recs	.1	ECF document review
4/5/16	Obtain/Review Recs	.1	ECF document review

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8. APPENDIX 8 – SAMPLE ENGAGEMENT LETTER

Sample Engagement Letter: Contents of Financial Arrangements

Case Name:

Case Number:

The engagement of your services for this case is subject to the following:

- 1) You will be compensated at a rate of \$ per hour for services and \$ per hour for travel time. The maximum payment amount authorized by the court as of this date is \$ for your services, not including properly itemized and documented reimbursable expenses.
- 2) A CJA Form 21 (non-capital) or 31 (capital) will be created for you in the court's electronic voucher system which either you or I will complete and submit. Instructions on how to use the eVoucher system will be provided to you.
- 3) It is my responsibility as counsel to certify to the court that the services were rendered. Payment for your services is subject to approval by the presiding judge and, in certain circumstances, the Chief Judge of the Ninth Circuit (or delegate). Approved payments are made by the Department of the Treasury out of the federal judiciary's Defender Services account, **not by me or my law firm.**
- 4) The presiding judge (the Chief Judge of the Ninth Circuit or delegate, if applicable) has discretion to reduce a voucher. Specific reasons include: (a) mathematical error; (b) non-compliance with circuit policy, district court policies or the Guidelines for Administering the CJA and Related Statutes, Volume 7, Guide to Judiciary Policy, or (c) a determination that the services claimed are unreasonable either in terms of the work performed or the amount of time and expenses submitted. Accordingly, this Engagement Letter is not a guarantee of payment for all services rendered or expenses incurred.
- 5) **Do not perform services or incur expenses that would result in an invoice in excess of the maximum payment amount authorized by the court** (as set forth in paragraph 1). Doing so creates a risk that the court will not authorize the payment for the work done or expenses incurred in excess of the maximum authorized amount, even if the services performed or expenses incurred are necessary. You must advise me **before** you exceed the court's maximum authorized payment amount, and if I determine additional work and/or expenses are necessary,

XI. APPENDIX

I will seek approval from the court for additional funds before such work is performed or expenses incurred.

- 6) Travel expenses will be reimbursed on the basis of actual expenses incurred. Please consult with me regarding the maximum reimbursement amounts for travel expenses. Airline travel must be authorized by the court in advance. If airline travel is authorized, I will provide guidance to you regarding the purchase of a ticket.
- 7) Record Keeping – Consistent with CJA Guidelines § 320.90, you are required to maintain contemporaneous time and attendance records for all work/services billed, as well as expense records. These records should be attached to your voucher that is submitted for payment. Any separate time and attendance records must be retained for three years after approval of the appointed counsel's or the service provider's final voucher, whichever is later.
- 8) Unless otherwise authorized by the court, a voucher for services performed and expenses incurred for the representation should be submitted at least every four months, or in increments of \$4,000, whichever comes first. While the court attempts to process invoices as quickly as possible, there may be delays in payment due to workload and other factors.
- 9) Scope of Work – You are authorized to do the following work:

Accepted by: _____

Date: _____

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