Attachment 1

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

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(d) Payment for representation.—

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(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.

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(e) Services other than counsel.—

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(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.

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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.

Attachment 2

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."

Attachment 3

Instructions to Determine the Applicable Case Compensation Maximums for Panel Attorneys Under the Amendment to the Criminal Justice Act in the Judicial Administration and Technical Amendments Act of 2008 Pub. L. No. 110-406

With the enactment of increased case compensation maximums for panel attorneys in non-capital representations under subparagraph (d)(2) of the Criminal Justice Act (CJA), 18 U.S.C. § 3006A, effective October 13, 2008, courts must determine whether compensation claims submitted on a CJA Form 20 (Appointment and Authority to Pay Court Appointed Counsel) are governed by the new maximums or by the former maximums.

The key rules are:

The new maximums apply to appointed counsel for a representation if that person furnished any CJA compensable work on or after October 13, 2008.

The former case compensation maximums apply to appointed counsel for a representation if that person's work was completed before October 13, 2008.

The person responsible for reviewing, processing, or approving claims should look at Item 19 ("Certification of Attorney/Payee for the Period of Service") of the CJA Form 20 to determine whether the panel attorney furnished any CJA-compensable work on or after October 13, 2008. If so, the new case compensation maximums apply to the attorney's voucher on the representation: felony and non-capital habeas corpus $7,800, misdemeanor $2,200, appeal $5,600, 18 U.S.C. § 4106A parole proceeding $1,700/appeal $5,600, and other representations $1,700. If, on the other hand, all services were performed before October 13, 2008, the former case compensation maximums apply: felony $7,000, misdemeanor $2,000, appeal $5,000, 18 U.S.C. § 4106A parole proceeding $1,500/appeal $5,000, and other representations $1,500. ***(PLEASE NOTE: If the voucher is entered into the CJA payment system after October 13, 2008, the warning message indicating that circuit approval is required will not activate at the former case maximum levels, even when they apply. The warning messages are only being generated based on the new case compensation maximums.)***