

**UNITED STATES COURT OF APPEALS**

***For the Eighth Circuit***

**July 11, 2024**

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## **GENERAL INFORMATION**

### **Personal Appointments**

Attorneys appointed under the Criminal Justice Act are appointed personally and individually. Payment on a CJA claim is made to the individual rather than to the firm or organization with which the individual is associated. However, the Administrative Office (AO) has made provisions for reporting CJA income as firm income if the attorney has a pre-existing financial agreement with his or her employer that CJA earnings belong to the law firm or corporation, the employer's tax identification number must be added to the billing information on the attorney's profile in eVoucher. It is the attorney's responsibility to ensure this information is accurate. An attorney may have two billing addresses in the attorney's profile. The check will be mailed to the address indicated as the default billing information.

Attorneys will receive a notice of docket activity (NDA) when a court order has been entered in CM/ECF appointing them to a case. The attorney will then receive an email notification from the Clerk's office and from eVoucher advising that an appointment has been entered in eVoucher. The email notification will contain information about updating the attorney's profile and creating a Login.gov account to be linked to their eVoucher profile.

### **Representation in Death Penalty Cases**

The Criminal Justice Act provides for the appointment of two attorneys where the sentence of death has been imposed. The court will consider the number of counsels needed in cases where the defendant is charged with an offense that may be punishable by death, but where the death penalty is not sought, or the sentence of death has not been imposed by the District Court.

The "Antiterrorism and Effective Death Penalty Act of 1996" has fixed the maximum hourly rate payable in death penalty cases. See: **§ 630.10.10 Hourly Rates**

### **Submission of Vouchers for Payment**

Vouchers should be completed and submitted in eVoucher as soon as possible after the issuance of the Court's mandate. Regulations set forth in the **Guide to Judiciary Policy**, Vol 7. Chapt. 2, Part A, § 230.13(a), state "Vouchers shall be submitted no later than 45 days after the representation concludes, unless good cause is shown." This Court interprets "after representation concludes" to mean the final service in the case (e.g. filing a petition for writ of certiorari in the Supreme Court, contacting the client about the disposition of the appeal, etc) or the issuance of the mandate, i.e., the time when jurisdiction of the case is returned to the District Court. If

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the mandate is stayed pending the filing of a petition for writ of certiorari with the United States Supreme Court, the voucher may be submitted after the petition is filed

with the Supreme Court. **Claims submitted outside of the 45-day period should be accompanied by a separate statement outlining the reasons for the delay.** This "Delay Statement" should be attached in PDF format in the Documents Tab on the voucher. Approval and payment of reimbursement requests outside the 45-day payment period is discretionary. Counsel is advised to submit their CJA vouchers promptly.

### **Justification Statements**

A justification statement should be attached in PDF format in the Documents Tab of the voucher if the amount of compensation being claimed (excluding expenses) exceeds the statutory limits set forth in § 230.23.20. The justification statement should address the reasons why the case was either extended or complex or both.

### **Review Process**

Upon submission to the Clerk's office, the claim is audited to check for mathematical errors, non-reimbursable expenses, completeness of attachments, and eligibility. If there is information missing, the voucher will be rejected, and the attorney will receive an email notification that the voucher is being returned; the reasons for the rejection will be listed in the email. The attorney may resubmit the voucher after the corrections have been made. Then, if there are no other problems to be corrected, a cover letter is prepared, and the claim is submitted to the Court. The award determination is made by the Court and the claim is returned to the Clerk's Office. The data related to both the appointment and the claim is verified as complete and accurate. A check is then issued (and sent to appointed counsel) within 72 hours from the Disbursing Office in Washington D.C. On the day that the data is certified for payment the appointed counsel will receive an email notification through eVoucher that processing has been completed.

**Non-reimbursable Expenses<sup>1</sup>**

1. General Office Overhead This includes expenses which would normally be reflected in the fee charged to the client. Therefore, expenses such as personnel costs, rent, telephone service, cell phone service, internet costs and secretarial help (whether regularly or specially employed, performing normal, overtime, or supplemental work, and even if counsel has no regularly employed secretary) are not reimbursable.
2. Items and Services of a Personal Nature The cost of items of a personal nature purchased for or on behalf of the person represented, such as purchasing new clothing, or having clothing cleaned, getting a haircut, furnishing cigarettes, candy or meals is not reimbursable. The cost of services such as assisting the defendant in the disposition of his or her personal property, arranging for the placement of minor children of the defendant or assisting the defendant in executing the conditions of probation is not reimbursable.
3. Filing Fees Attorneys should not be required to pay a filing fee or PACER fees in a Criminal Justice Act case. If a filing fee is paid by an attorney who is subsequently appointed in the case, he or she should petition the District Court for a refund of that fee. Counsel should obtain a fee-exempt PACER account for use in connection with the CJA appointment.
4. Printing of Briefs The expense of specialized typesetting, layout, or binding of appellate or other legal briefs (including Supreme Court booklets) exceeding requirements for individuals represented under the Criminal Justice Act, regardless of the printing method utilized, is not reimbursable. The reasonable cost of laser printing, photocopying, or similar duplication expenses is reimbursable.
5. Travel-related Expenses Alcoholic beverages are not reimbursable expenses. Car rental is not reimbursable (the court will reimburse expenses for public transit, airport shuttle services, and taxi). Attorneys who are authorized to travel in relation to their appointment under the Criminal Justice Act are expected to use government travel rates when arranging hotel accommodations.

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<sup>1</sup> This information is adapted from Vol. 7, Chap. 2, Part A, § 230.66 of the Guide to Judiciary Policy.

## **Receipts**

Specifically, **itemized receipts are required** for the following expenses. These receipts must be scanned as PDF documents and attached to the voucher in the Documents Tab.

1. Long distance phone charges in excess of \$50.00. Calls must be itemized by date, person called, and amount. Applicable charges should be highlighted.
2. All photocopy charges incurred outside of appointed counsel's office. (Copies made "in-house" will be reimbursed in an amount up to and including 15¢ per page. An indication of the number of copies made and the cost per copy is required.)
3. All expenses related to travel for the purpose of presenting oral argument including hotel accommodations, meals, and ground transportation. The hotel's detailed receipt, showing the cost of the room and the taxes charged is required. Travel by personal automobile is reimbursable at the mileage rate currently prescribed for federal judiciary employees who use a private automobile for conduct of official business.  
**See § 230.63.40 Travel Expenses**  
[Reimbursement for use of a personal automobile will be limited to the cost of round-trip, coach air fare applicable to the same trip. Counsel will be reimbursed for actual subsistence for lodging and meals. In determining whether actual expenses for meals are reasonable, counsel should be guided by the General Services Administration's applicable per diem rates. See Guide to Judiciary Policy, Vol. 7A, Ch. 2, Sec. 230.63.40. Please use the government travel rate when arranging hotel accommodations.]
4. Expenses related to computer assisted legal research (e.g., Lexis, Westlaw), must be accompanied by receipts that show the method of billing and the total time spent using the computerized system. A statement of the issues researched and an estimate of the amount of time necessary to do the research manually must also be included. Applicable charges should be highlighted.
5. Postage expenses for overnight delivery, express mail, or courier services require a detailed receipt.

## **INTERIM PAYMENTS**

**Interim payments are granted on a limited basis only and requests for an interim payment are not encouraged by the Court.** (An interim payment is defined as a payment made to appointed counsel prior to the final disposition of the case.) If an interim payment is requested, the voucher may be submitted and must include, as an attachment, a statement to the Court outlining the reasons for which an interim payment is necessary (i.e., financial hardship). Please note that generally only one interim payment is allowed.

## **SUPPLEMENTAL PAYMENTS**

Occasionally, additional work is done in a case for which appointed counsel has already been compensated. In this situation, appointed counsel may submit a supplemental voucher. Counsel should attach to the supplemental voucher a statement which (1) outlines the reason(s) for which additional time was expended or expenses were incurred as a result of the appointment, and (2) includes a statement that counsel could not have reasonably anticipated the need to expend the additional time or incur the additional expenses at the time the final voucher was previously submitted.

## **TRAVEL**

CJA-appointed attorneys are authorized to obtain government rates for hotels and airline travel in connection with their representation under the Act. The clerk's office will provide travel authorizations to CJA attorneys requiring air transportation to attend oral argument allowing them to use the services of National Travel or other designated government-authorized travel service to book the reservation and issue a refundable airline ticket. The cost of the ticket will then be paid directly through the CJA payment system. Attorneys are advised to carry the travel authorization with them when they travel, and they should submit both the authorization and the airline ticket or travel itinerary provided by National Travel with their completed CJA voucher at the completion of the appointment. Should counsel's travel plans change or require cancellation, counsel is required to advise National Travel and the clerk's office promptly so that any charges may be properly credited.

Hotel charges may not be billed directly to the court's CJA account but will be submitted for reimbursement on the expenses tab of the CJA voucher at the conclusion of the case. When arranging hotel accommodations, CJA- appointed Attorneys are expected to use government travel rates. See Guide to Judiciary Policy, Vol. 7A, Ch. 2, Section 230.63.40(d). Many hotels offer CJA attorneys government rates for their travel in connection with their representation under the Act. Please tell them that you are traveling on CJA-related business when you make your reservations and show them your travel authorization when you check in. Please also retain an itemized receipt of your stay in order to confirm your use of the government rate. A list of hotels near the

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courthouse can be found at <http://www.ca8.uscourts.gov/hotel-information>. If you are unable to acquire lodging at the government travel rate, you will be asked, when submitting your voucher, to provide a statement summarizing the reasonable efforts you undertook to utilize the government rate and why the rate was not available to you. If no explanation is provided, your hotel expenses may not be fully reimbursed.

Additional guidance regarding travel rules may be found at [Guide to Judiciary Policy](http://www.uscourts.gov/RulesAndPolicies/TravelRegulations.aspx), Vol. 19, Ch. 4, at: <http://www.uscourts.gov/RulesAndPolicies/TravelRegulations.aspx>.

### **COMPENSATION OF PARALEGALS, LEGAL ASSISTANTS, AND LAW STUDENTS**

Paralegals, legal assistants, and law students may be compensated at an hourly rate less than that paid to appointed counsel. Requests for compensation for time expended by paralegals, legal assistants, and law students must be submitted on a CJA Form 21. Prior authorization is required, and the court must enter the service provider's information into the eVoucher database before a CJA 21 voucher may be submitted to the court. See Instructions for Completing CJA 21/31. Counsel shall provide an explanation of the services provided, the basis for the hourly rate requested, and the time expended.

Reimbursement will not be provided for services that are considered secretarial work, even if provided by paralegals or legal assistants. Counsel should itemize the services provided. The CJA Form 21 should be submitted with the final CJA 20 after the mandate has issued.

Appointed counsel may obtain a total of \$1,000 per case (excluding expenses) in expert and other services without prior court authorization, but subject to “later review” for reasonableness, if that work was performed on or after January 1, 2024. See 18 U.S.C. § 3006A(e); Guide to Judiciary Policy, Vol. 7A, Ch. 3, § 310.20.30. If the services were completed before January 1, 2024, the former case compensation amount (\$900) applies. See Guide to Judiciary Policy, Vol. 7A, Ch. 3, §§ 310.20.30, 310.20.40. Absent prior court authorization, service provider costs over the applicable maximum amount will be approved only upon a showing that timely procurement of necessary services could not await prior authorization. See 18 U.S.C. § 3006A(e)(2)(B); Guide to Judiciary Policy, Vol. 7A, Ch. 3, § 310.20.30(b). Because this showing is difficult to make in an appeal, appellate CJA counsel are encouraged to obtain prior authorization for the total anticipated cost for all service providers, including paralegals employed by CJA counsel’s law firm. If it can be anticipated that the compensation will exceed the statutory maximum, advance approval should be obtained from the court and the chief circuit judge. See Guide to Judiciary Policy, Vol. 7A, Ch. 3, § 310.20.20(b). Counsel should note that, with prior authorization, the maximum applies separately for each service provider; without prior authorization, the maximum applies to the aggregate compensation (excluding expenses) claimed by all service providers combined, not to each service provider individually. See 18 U.S.C. § 3006A(e).



**COMPENSATION OF ASSOCIATE ATTORNEYS**

Associate attorneys may assist the appointed counsel and their time may be compensated. Associate attorney work is submitted on the appointed counsel's voucher. The associate's time is included in the total statutory maximum for the case. Only one associate may be added to each appointment and the associate must be employed in the appointed attorney's law firm. Instructions for adding an associate attorney can be found on the Court's website under CJA Information.