



## UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

The primary source for guidance in making claims is the Guide to Judiciary Policy, Volume VII, "Defender Services." The Guide is available at [www.uscourts.gov/uscourts/cjaort/index.html](http://www.uscourts.gov/uscourts/cjaort/index.html). Additional information may be found in Ninth Circuit Rule 4-1.

The following Instructions for Completing CJA Form 20 summarize the procedures. Please consult 28 U.S.C. § 3006A, Circuit Rule 4-1, and the Guide for additional information. The Act requires that a copy of the payment voucher be made available to the public upon approval of the payment. *See* the attached Notice of Public Disclosure of Attorney Fee Information.

### INSTRUCTIONS FOR CJA FORM 20

#### **CJA Form 20 - "Appointment of and Authority to Pay Court Appointed Counsel"**

Practitioners are provided a Form 20 shortly after the notice of appeal is filed or upon appointment during the pendency of appellate proceedings. A separate voucher must be submitted for each person represented. (Claims for death penalty cases require a CJA Form 30; contact the clerk's office for more information.) Billing should be limited to services rendered on or after the date the notice of appeal is filed.

Completing CJA Form 20: Entry of hours on the on-line time sheet will populate the corresponding fields in the Form 20.

Information Summary: Download the form the web site, [www.ca9.uscourts.gov](http://www.ca9.uscourts.gov); a completed form must be attached to each Form 20 and any Form 21's seeking reimbursement for paralegal services. Counsel may attach a more detailed statement supporting the claim.

Record Keeping: Counsel must maintain contemporaneous time and attendance records for all work performed, including work performed by associates, partners, and support staff, as well as expense records. These records may be subject to audit and must be retained for **three years** after approval of the final voucher.

In-court time includes the time requested by the court for check-in purposes, as adhered to by counsel; in-court time does not include argument preparation time. Time spent performing a service **must** be reported in **tenths** of an hour (e.g., 6 minutes = .1, 12 minutes = .2).

## Compensation for Services

### Hourly Rates

Effective dates	In-court Rate Per Hour	Out of Court Rate Per Hour
01/01/10 - present	\$125	\$125
03/11/09 - 12/31/09	\$110	\$110
01/01/08 - 03/10/09	\$100	\$100
05/20/07 - 12/31/07	\$94	\$94
01/01/06 - 05/19/07	\$92	\$92
05/01/02 - 12/31/05	\$90	\$90

The on-line billing program will automatically assign the appropriate rate based on the service date.

### Maximum Amounts

Appeals of criminal convictions and/or sentences, non-death penalty habeas corpus proceedings, and civil asset forfeiture are subject to a maximum payment of [**\$3,700** for compensation for **services on or after 11/13/00 thru 12/07/04**], [**\$5,000** for compensation for **services on or after 12/08/04 thru 10/12/08**], [**\$5,600** for compensation for **services on or after 10/13/08 thru 03/10/09**], [ **\$6,100** for compensation for **services on or after 03/11/09 thru 12/31/09**] and [**\$6,900** for compensation for **services on or after 01/01/10 and thereafter**]. Appeals of post-trial motions made after the entry of judgment, revocations of probation, most parole proceedings, grand jury proceedings, and appeals in discretionary appointments listed in 18 U.S.C. § 3006A(g) have a compensation ceiling of [**\$1,200** if **services completed on or after 11/13/00 thru 12/07/04**], [**\$1500** if **services completed on or after 12/08/04 thru 10/12/08**], [**\$1700** if **services completed on or after 10/13/08 thru 03/10/09**] and [**\$1800** if **services completed on or after 03/11/09 thru 12/31/09**] and [**\$2100** if **services completed on or after 01/01/10 and thereafter**]. The cap on compensation excludes expenses for travel, copying, computer assisted research, etc. Appeals of U.S. Parole Commission determinations under 18 U.S.C. § 4106A are subject to a maximum of \$6,100. See 18 U.S.C. § 3006A(d)(2) and Chapter I, ¶ (d)(2) of the Guide.

### Waiving Maximum Amounts

Compensation exceeding the maximum amounts may be granted only where: (1) the Appellate Commissioner certifies that the representation is "extended or complex" and that the excess payment is necessary to compensate counsel fairly; and (2) the amount certified by the Appellate Commissioner is approved by the Chief Judge of the Ninth Circuit or one of the three administrative judges to whom the Chief Judge has delegated the approval authority. See 18 U.S.C. § 3006A(d)(3).

### **Reimbursement of Out-of-Pocket Expenses**

Reasonable out-of-pocket expenses incurred in connection with a representation before the Court of Appeals may be claimed on the CJA Form 20 voucher and are not included in the statutory maximum. Expenses must be listed on the expense worksheet accompanied by a short explanation.

Receipts are required for all expenses related to meals, lodging, and computer-assisted legal research. Receipts are also required for any single travel expense of \$25 or more. Receipts are required for any non-travel single expense of \$50 or more.

In-house photocopying reimbursement is available at actual cost not to exceed 15¢ per page. List the number of pages and per-page cost of in-house photocopies.

### **Travel Time and Transportation Costs**

Travel Time: Compensation may be approved at rates specified in Section II. A. above for time spent in necessary and reasonable travel. Allowable time for travel includes only those hours actually spent in travel or awaiting transit, and should be recorded on the "HOURLY Worksheet."

Transportation Costs: Travel by a privately owned automobile should be claimed at the rate prescribed for federal judiciary employees who use a private automobile for conducting official business. Parking fees, ferry fares, and tolls may also be claimed. Other means of transportation should be claimed on an actual expense basis. Car rental will be reimbursed only when shuttle or taxi service is either unavailable or more expensive than car rental. Transportation expenses should be recorded on the "TRAVEL Worksheet."

Air Travel: Counsel appointed under the Criminal Justice Act may make airline reservations individually or through Omega World Travel or Travel Company of Montana (TRAVCO). Air fare for reservations made through the agency is billed directly to the Court and should not appear as an expense on vouchers. If air travel is required, please call the Clerk's Office promptly at (415) 355-7993 for travel authorization and further instructions.

Meals and Lodging: Reasonable actual expenses for meals and lodging while traveling are reimbursable. The maximum amounts allowed for federal court employees are considered a reasonable standard; per diem rates are found at [www.gsa.gov](http://www.gsa.gov). Meals and lodging should be recorded on the "TRAVEL Worksheet", as well as costs for parking, shuttle, bridge tolls, etc. The contract government travel service can provide hotel reservations at the government rate and may also arrange airport shuttle service.

Law Students/Paralegals Law students/paralegals may assist appointed counsel. Reimbursement must be requested by way of submission of a CJA Form 21 for the actual compensation paid to law students or paralegals. Documentation of the amount paid must be supplied. If the law student/paralegal is on the firm's payroll or if counsel has advanced the compensation, the Form 21 shall list the firm as the payee.

Non-reimbursable Expenses General office overhead, such as secretarial help (whether regularly or specially employed), rent, telephone service, and preparation of billing or vouchers are not reimbursable except in extraordinary circumstances. Routine office tasks such as copying, filing and serving are not compensable even if performed by the attorney. The docketing/filing fee is waived for persons proceeding under the CJA. Fees paid in error will not be reimbursed.

Expert services (e.g., translators/interpreters) Payment from the court directly to the expert is preferable. Prior authorization is required for services over \$800.

### **Deadline for Submitting CJA Form 20**

Claims are due within 45 days after the final disposition of the case in this court or after the filing of a petition for certiorari, whichever is later. 9th Cir. 4-1(f). Counsel are encouraged to submit only one claim encompassing all services, including any petition for rehearing, and/or writ of certiorari. General Order 6.7. Counsel may, however, submit the voucher for all services rendered through the time of oral argument or other submission and then submit a supplemental claim for services rendered after the first voucher.

Any voucher submitted prior to submission of the appeal for a decision on the merits must be accompanied by a request attached to the voucher that explains the necessity for interim CJA payment. Only in rare instances will interim payment be permitted before the opening brief is filed.

### **Writ of Certiorari**

Counsel's time and expenses involved in the preparation of a petition for writ of certiorari or a response to a petition are considered applicable to the case before the Court of Appeals. **A copy of the petition or response must accompany the voucher.** Ninth Circuit Rule 4-1(e).

In this regard, counsel are reminded that printing costs are not recoverable – only photocopying costs. Note that Sup. Ct. R. 33.2 allows *in forma pauperis* petitioners to prepare the petition on 8½ by 11 inch paper instead of printed booklet form. Sup. Ct. R. 12(2) allows an *in forma pauperis* petitioner to file an original and 10 copies of a petition, along with an original and 10 copies of the motion for leave to proceed *in forma pauperis*. See Sup. Ct. R. 15 regarding oppositions to a petition for writ of certiorari. The web site address for the Supreme Court is [www.supremecourtus.gov](http://www.supremecourtus.gov).



**NOTICE TO COURT APPOINTED COUNSEL OF  
PUBLIC DISCLOSURE OF ATTORNEY FEE INFORMATION**

NEW RULES APPLICABLE TO CASES COMMENCED  
ON OR AFTER JANUARY 25, 1998

The Criminal Justice Act (CJA), 18 U.S.C. § 3006A, now requires that the amounts paid to court appointed attorneys be made publicly available upon the court's approval of the payments. The court may disclose an unredacted copy of a payment voucher submitted by defense counsel, or a redacted copy of a voucher indicating only the amounts approved for payment according to categories of services listed in the statute. (The text of the new statutory provision, 18 U.S.C. § 3006A(d)(4), is set forth on the back of this notice.) The extent of disclosure depends on whether the case is pending and on whether the court determines that certain interests (enumerated in subpart (d)(4)(D) of the CJA and listed below in part B.1) require the redaction of detailed information on the voucher. Upon court approval of a voucher claim, payment information will be made available as follows:

**A. BEFORE OR DURING THE TRIAL:** After redacting any detailed information provided to justify the expenses, the court shall make available to the public only the amounts approved for payment. Upon the completion of trial, unredacted copies of the vouchers may be released, depending on whether an appeal is being pursued and whether the court determines that one or more of the interests listed in part B.1 require the redaction of information.

**B. AFTER THE TRIAL IS COMPLETED:** The court shall make available to the public either redacted or unredacted vouchers as follows.

**1. If trial court proceedings have been completed and appellate review is not being pursued or has concluded at the time payment is approved:** The court shall make an unredacted copy of the payment voucher available to the public unless it determines that one or more of the interests listed below justify limiting disclosure to the amounts approved for payment in the manner described in part A. The interests that may require limiting disclosure include:

- (1) the protection of any person's 5<sup>th</sup> Amendment right against self-incrimination;
- (2) the protection of the defendant's 6<sup>th</sup> Amendment rights to effective assistance of counsel;
- (3) the defendant's attorney-client privilege;
- (4) the work product privilege of the defendant's counsel;
- (5) the safety of any person; and
- (6) any other interest that justice may require.

**2. If appellate review is being pursued at the time payment is approved:** The court shall make available to the public only the amounts approved for payment in the manner described in part A unless it finds that none of the interests listed above in part B.1 will be compromised.

**C. AFTER THE APPEAL IS COMPLETED:** The court shall make an unredacted copy of the payment voucher available to the public unless it determines that one or more of the interests listed in part B.1 justify limiting disclosure to the amounts approved for payment in the manner described in part A.

If counsel believes that any of the interests listed above in part B.1 justify limiting disclosure to the amounts approved for payment, counsel should submit to the court a written request, identifying the interests at risk and the arguments in support of providing protection, **AT OR BEFORE THE TIME A CLAIM FOR PAYMENT IS MADE**. Failure to do so could result in the public availability of unredacted copies of your vouchers without further notice.

**This constitutes notice as required under 18 U.S.C. §3006A (d)(4)(E). You may NOT receive additional notice before any payment information is made available to the public.**

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**Provision of FY 1998 Judiciary Appropriation Act (Public Law 105-119, Nov. 26, 1997) amending the Criminal Justice Act**  
*SEC. 306. Section 3006A(d) of title 18, United States Code, is amended by striking paragraph (4) and inserting the following:*

**“(4) DISCLOSURE OF FEES..-**

**“(A) IN GENERAL.-** Subject to subparagraphs (B) through (E), the amounts paid under this subsection for services in any case shall be made available to the public by the court upon the court’s approval of the payment.

**“(B) PRE-TRIAL OR TRIAL IN PROGRESS.-** If a trial is in pre-trial status or still in progress and after considering the defendant’s interests as set forth in subparagraph (D), the court shall-

“(i) redact any detailed information on the payment voucher provided by defense counsel to justify the expenses to the court; and

“(ii) make public only the amounts approved for payment to defense counsel by dividing those amounts into the following categories:

“(I) Arraignment and/or plea.

“(II) Bail and detention hearings.

“(III) Motions.

“(IV) Hearings.

“(V) Interviews and conferences.

“(VI) Obtaining and reviewing records.

“(VII) Legal research and brief writing.

“(VIII) Travel time.

“(IX) Investigative work.

“(X) Experts.

“(XI) Trial and appeals.

“(XII) Other.

**“(C) TRIAL COMPLETED.-**

**“(i) IN GENERAL.-** If a request for payment is not submitted until after the completion of the trial and subject to consideration of the defendant’s interests as set forth in subparagraph (D), the court shall make available to the public an unredacted copy of the expense voucher.

**“(ii) PROTECTION OF THE RIGHTS OF THE DEFENDANT.-** If the court determines that defendant’s interests as set forth in subparagraph (D) require a limited disclosure, the court shall disclose amounts as provided in subparagraph (B).

**“(D) CONSIDERATIONS.-** The interests referred to in subparagraph (B) and (C) are-

“(i) to protect any person’s 5<sup>th</sup> amendment right against self-incrimination;

“(ii) to protect the defendant’s 6<sup>th</sup> amendment rights to effective assistance of counsel;

“(iii) the defendant’s attorney-client privilege;

“(iv) the work product privilege of the defendant’s counsel;

“(v) the safety of any person; and

“(vi) any other interest that justice may require.

**“(E) NOTICE.-** The court shall provide reasonable notice of disclosure to the counsel of the defendant prior to the approval of the payments in order to allow the counsel to request redaction based on the considerations set forth in subparagraph (D). Upon completion of the trial, the court shall release unredacted copies of the vouchers provided by defense counsel to justify the expenses to the court. If there is an appeal, the court shall not release unredacted copies of the vouchers provided by defense counsel to justify the expenses to the court until such time as the appeals process is completed, unless the court determines that none of the defendant’s interests set forth in subparagraph (D) will be compromised.

**“(F) EFFECTIVE DATE.-** The amendment made by paragraph (4) shall become effective 60 days after enactment of this Act, will apply only to cases filed on or after the effective date, and shall be in effect for no longer than twenty-four months after the effective date.”



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