



## UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

### CJA BILLING GUIDELINES

You have been appointed under the Criminal Justice Act (CJA), 18 U.S.C. § 3006A, to represent an individual in a matter before the United States Court of Appeals for the Ninth Circuit. The primary source for guidance in making claims and funding requests is the *Guide to Judiciary Policy, Volume VII, Appointment of Counsel in Criminal Cases* (“the Guide”). Additional information is available in the Judicial Council of the Ninth Circuit’s CJA Policies and Procedures, the Ninth Circuit CJA eVoucher Attorney Manual, and Ninth Circuit Rule 4-1. These resources are available on our website at <https://www.ca9.uscourts.gov/attorneys/>.

These instructions summarize the relevant procedures for submitting a CJA 20 or 30 voucher. For questions about these instructions please call the Clerk’s office at (415) 355-7920, or call (626) 229-7250 for non-capital cases arising out of the Southern and Central Districts of California.

#### **1. CJA 20/30 - Appointment of and Authority to Pay Court Appointed Counsel**

A claim for attorney services rendered in the Court of Appeals must be submitted electronically on a CJA 20 in eVoucher. Claims for death penalty cases require a CJA 30. This court takes jurisdiction as of the date the notice of appeal is filed, and pays for services rendered on or after that date. Any services prior to that date should be billed to the district court unless the appointment for the appeal was expressly made *nunc pro tunc* to an earlier date.

## **A. Completing the CJA 20 for Non-Capital Cases**

Complete all portions of the CJA 20 that apply to your case(s) and submit the electronic voucher(s) for payment. See the Ninth Circuit CJA eVoucher Attorney User Manual on our website for instructions on creating and submitting a CJA 20. Payment will be delayed if a voucher is returned to counsel to provide missing information.

### **Documentation of Compensation**

Every voucher in a non-budgeted case, even those claiming amounts less than the statutory maximum, must be accompanied by a completed Information Summary Form, available in eVoucher under Links and on our website at <https://www.ca9.uscourts.gov/attorneys/> in a fillable PDF format. This form is designed to expedite a determination whether the hours claimed are "reasonable" and whether the representation is "extended or complex." In most cases, the completed form provides all information necessary to process the voucher quickly. Counsel may also attach a more detailed statement supporting the claim that the requested compensation is "reasonable," that the representation was "extended or complex," and that payment is necessary to provide fair compensation. Budgeted cases do not require an Information Summary Form.

### **Record Keeping**

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

## **B. Completing the CJA 30 for Capital Cases**

The procedures for completing the CJA 30 are identical to those for completing the CJA 20, except for maximum payment limitations and hourly rates.

The hourly rate in this court for attorney services will be the same as that approved in the district court. Compensation at a higher rate, not to exceed the designated capital hourly rate, is discretionary and **only available** upon separate request to this Court by completing and submitting this [form](#) via eVoucher.

## **2. Compensation for Services**

### **A. Hourly Rates**

Hourly rates for non-capital cases are automatically populated in eVoucher, based on the date the service was rendered.

NOTE: 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. If billing more than 12 hours in a single day, counsel must provide sufficient justification to explain the time.

### **B. Maximum Amounts**

All non-capital cases for which CJA counsel may be appointed are subject to a statutory maximum payment unless permission to exceed the maximum is granted by the Court. For current maximum compensation amounts, see 18 U.S.C. § 3006A and § 230.23.20 of the Guide.

### **C. Permission to Exceed 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 his designee.

## **3. Expenses**

### **A. General Rule**

Reasonable out-of-pocket expenses incurred in connection with a representation before the Court of Appeals may be claimed on a CJA 20 or 30 and are not included in the statutory maximum. Expenses must be listed under the "EXPENSES" section of the CJA 20/30 and accompanied by a short explanation.

## **B. Supporting Documentation**

All expenses must be clearly itemized and receipts attached to the “DOCUMENTS” section of the CJA 20/30. Receipts are required for all expenses related to meals, lodging, and computer-assisted legal research, regardless of amount. Travel expenses (other than meals and lodging) exceeding \$25 must be accompanied by a receipt. Receipts are also required for any non-travel single expense of \$50 or more, such as postage, shipping, or printing.

## **C. Travel Time and Transportation Costs**

Compensation may be approved at the appropriate hourly rate for time spent in necessary and reasonable travel. Allowable time for travel includes only those hours actually spent traveling or awaiting transit, and should be recorded in the “SERVICES” section.

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. Mileage rates are automatically generated in eVoucher. Current and past mileage rates are available at [www.gsa.gov](http://www.gsa.gov) under “Travel Resources” and “POV Mileage.” Parking fees, ferry fares, and tolls may also be claimed. All other means of transportation should be claimed on an actual expense basis. Car rentals will be reimbursed only when shuttle, ride share, or taxi service is either unavailable or more expensive than car rental. Transportation expenses should be recorded in the “EXPENSES” section and accompanied by required receipts.

Air Travel: Counsel appointed under the Criminal Justice Act **must** make all airline reservations through National Travel Service (NTS) at 1-800-445-0668. The airfare is billed directly to the Court and should not appear as an expense on vouchers. If air travel is required for non-oral argument purposes, please submit a Travel Authorization Request through eVoucher. When appeals are scheduled for oral argument, a travel authorization will be generated automatically. Airfare will not be reimbursable on CJA vouchers.

## **D. Meals and Lodging**

Reasonable actual expenses for meals and lodging while traveling are reimbursable up to the location's per diem rate, found at <https://www.gsa.gov/travel/plan-book/per-diem-rates/per-diem-rates-lookup>. Meals and lodging should be recorded in the "EXPENSES" section of the CJA 20/30, as well as costs for parking, shuttle, bridge tolls, etc. Receipts must be uploaded to the "DOCUMENTS" section. The NTS can provide hotel reservations at the government rate and may also be able to arrange airport shuttle service. Government-rate lodging can also be found at [www.fedrooms.com](http://www.fedrooms.com).

## **E. Other Expenses**

"Other Expenses" include photocopying, postage, mailing and delivery costs, telephone toll calls, and fax expenses, and should be entered in the "EXPENSES" section of the CJA 20/30. Upload receipts and invoices for all expenses billed at actual cost to the "DOCUMENTS" section. Prior authorization is required for any single non-travel expense over \$900.

**Photocopying:** Copy service expenses are reimbursable at actual cost. In-house copy costs are reimbursable at actual cost, not to exceed 15¢ per page. The number of pages and the cost per page should be provided for in-house copying.

**Computer-assisted Legal Research:** The actual cost of computer-assisted legal research may be allowed. The expense must be documented with a copy of the invoice, identifying the specific research, regardless of the amount of the expense.

## **F. Non-reimbursable Expenses**

General office overhead, such as secretarial help (whether regularly or specially employed), rent, telephone service, and billing 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 cost of printing briefs during the process of drafting and editing is not reimbursable. The cost of photocopying portions of the record for use by the attorney or by the client, printing or photocopying drafts of the brief for review by the client, or producing the final brief for submission to the Court is reimbursable.

Filing fees are waived for persons proceeding under CJA, however, fees paid in error will not be reimbursed.

Personal items and services for the client such as new clothing, haircuts, cigarettes, lodging, travel, and meals are not payable under the Criminal Justice Act. Payments by counsel for such items will not be reimbursed.

#### **4. Service Providers**

Under 18 U.S.C. § 3006A(e), counsel for a financially eligible appellant may obtain investigative, expert, and other services necessary for adequate representation. Such services may include law students, paralegals, interpreters, investigators, and experts. If the service provider fees are expected to exceed the prior authorization threshold of \$900, counsel must seek advance authorization using an AUTH in eVoucher. See § 310.20.30 of the Guide. Payment is made directly to the service provider on a CJA 21 or CJA 31. Documentation of the amount requested must be supplied. If the service provider is on the firm's payroll, the CJA 21 or CJA 31 shall list the firm as the payee. Counsel may not pay the service provider and then request reimbursement as an expense on CJA 20/30.

#### **5. Appointment of and Authority to Pay Court Appointed Associate, Additional and Co-Counsel**

##### **A. Advance Authorization for Associate, Additional, and Co-Counsel Required**

To use the services of an additional attorney or co-counsel from within or outside of your firm, or an associate counsel outside your firm, you must use the "Request For Advance Authorization of Additional Counsel or Co-Counsel" form. This form is available on our web site at

<https://www.ca9.uscourts.gov/attorneys/>. Submit the completed form via email to [Susan\\_Gelmis@ca9.uscourts.gov](mailto:Susan_Gelmis@ca9.uscourts.gov).

## **B. Billing for Associate, Additional, and Co-Counsel**

If the request for co-counsel or associate counsel outside your firm is granted, a separate appointment record will be created for the additional counsel, who will then submit their own vouchers for payment, subject to the specific hourly rate approved by the court. Unless otherwise expressly noted and approved, compensation for additional counsel will be subject to the same statutory maximum payment governing the primary appointment.

Associates working in the **same firm** as appointed counsel must bill their time on appointed counsel's voucher, separately from appointed counsel's time. When appointed counsel anticipates using the services of an **in-house associate attorney** in a given case, counsel must seek approval from the court, which will then add the associate to that particular eVoucher appointment. The request must confirm that the associate is an employee in counsel of record's firm, must provide the associate's billing rate and the nunc pro tunc appointment date, and must state whether the associate also provided services in the district court. Requests to create an in-house associate record can be submitted via email to [Susan\\_Gelmis@ca9.uscourts.gov](mailto:Susan_Gelmis@ca9.uscourts.gov).

Once an in-house associate has been added to the appointment, either appointed counsel or the associate may add the associate's services and expenses to a CJA 20/30. Appointed counsel would then submit the associate's services and expenses together with their own services and expenses on the same voucher. Procedures for creating and submitting an associate voucher are available under Links in eVoucher and on our web site at <https://www.ca9.uscourts.gov/attorneys/>.

## **6. Submission Deadline**

Counsel should submit the completed voucher 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. Counsel are encouraged to submit only one voucher in each appeal, including in that one voucher claims for any petition for rehearing, suggestion for rehearing en banc, and petition for writ of

certiorari. This not only reduces the processing burden on the court and thereby expedites voucher approval, it also allows a more informed determination of whether the appeal is "extended or complex" or whether the compensation available is limited by the statutory maximum set forth in the Criminal Justice Act. 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 "DOCUMENTS" section that explains the necessity for interim CJA payment. The court prefers that briefing be complete -- i.e., both opening and reply briefs have been filed -- before submitting the voucher and request for interim CJA payment. Only in rare instances will interim payment(s) be permitted before the opening brief is filed.

## **7. 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 billable 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).

## **8. Audit and Approval of Claims**

The Operations Assistants review all vouchers for technical accuracy and conformity with the guidelines set forth in Volume VII of the *Guide to Judiciary Policies and Procedures* and with the Circuit Rules. Claims are then submitted to the Appellate Commissioner for certification of such compensation he deemed reasonable and appropriate under the Criminal Justice Act. If the Appellate Commissioner concludes that an amount less than that requested by the attorney is appropriate, the Appellate Commissioner will communicate to the attorney the reasoning for the proposed reduction and offer the attorney an opportunity to respond regarding the propriety and reasonableness of the voucher before certifying a reduction in the amount.

If the Appellate Commissioner certifies a reduced amount, and the attorney seeks reconsideration, he will receive and review the request for reconsideration and may grant it in full or in part. If the Appellate



Commissioner does not grant reconsideration, the request shall be referred to and decided by the Chief Judge or his designee.

If the Appellate Commissioner certifies payment in excess of the statutory maximum provided by the Criminal Justice Act, the Clerk shall forward the voucher to the CJA Unit of the Office of Circuit Executive for review. *See* Administrative Order effective February 1, 2019, available at <https://www.ca9.uscourts.gov/attorneys/>.

After final approval, the CJA 20 or 30 is certified for payment directly to the applicant. The eVoucher program automatically notifies counsel by email that the claim has been certified for payment, which concludes the processing of the claim in the Ninth Circuit.