

United States District Court
NORTHERN DISTRICT OF CALIFORNIA

JAMES WARE, CHIEF JUDGE

RICHARD W. WIEKING, CLERK OF COURT

SEARCH

HOME ABOUT THE COURT LOCATIONS CONTACT CALENDARS FORMS RULES & GENERAL ORDERS FAQ

JUDGES

CASES

ELECTRONIC CASE FILING

PACER

ALTERNATIVE DISPUTE RESOLUTION (ADR)

CRIMINAL JUSTICE ACT (CJA)

Becoming a CJA Panel Member
Contacting the CJA Unit
Education, Training, and Resources
Forms
Funding Requests
Subpoenas
Transcripts

Capital and Non-Capital Criminal Representation

Case Compensation Maximums
Compensation Rates

Guidelines and Policies

CJA Policy Manual

CJA Fee Review Committee
Criminal Justice Act Plan of the Ninth Circuit
Guide to Judiciary Policies and Procedures, Volume VII (www.uscourts.gov)

Vouchers, Forms, and Instructions

Capital Habeas Representation

CLERK'S OFFICE

CAREER OPPORTUNITIES

COURTHOUSE LIBRARIES

HISTORICAL SOCIETY

HOME > Criminal Justice Act (CJA) > Capital and Non-Capital Criminal Representation > Guidelines and Policies

CJA Policy Manual

Table of Contents

GENERAL CJA VOUCHER INSTRUCTIONS

Appointment of Counsel and Issuance of Initial Voucher

Cross-Reference of Vouchers

Attorneys' Compensation and Recordkeeping

Recycling

Maximum Amounts

CJA 20: Non-Capital Cases

Time Limits

Standard Cases

Complex or Extended Cases/Interim Payments

Multi-Defendant Cases

CJA 30: Capital Cases

Voucher Preparation

Voucher Review

Approval and Payment

Supplemental Claims

Appeal of Voucher Reduction

Routing

Confidentiality of CJA Documents

No Sealing Requests for CJA Vouchers or Funding Requests

Status of Vouchers

1099 Reporting

REIMBURSABLE EXPENSES

Supporting Documentation

Associates in the Same Firm

Assistant Counsel (Independent of a Firm)

Paralegals

Computerized Legal Research

Photocopying

Fax and Phone

Postage

Messengers/Couriers/Express Delivery Services

Fact Witnesses

State Court/Other Ancillary Matters

Perez v. Cate, No. 09-17185 archived on January 25, 2011

REIMBURSABLE FEES FOR EXPERTS AND OTHER SERVICE PROVIDERS

Funding Requests for Services Exceeding \$800.00

Specificity in Funding Request

No Payments in Excess of Amount Authorized

Order Final Upon District Court's Approval

Submission and Routing of Funding Requests

Service on Opposing Counsel/Confidentiality of CJA Funding Requests

Expert Vouchers

CJA 21

CJA 31

Expert Presumptive Rates

Investigators

Interpreters

Psychiatrists, Psychologists

Depositions

Transcripts of Proceedings in District Judge Cases

Transcript Rates

Multi-Defendant Cases

Procedure for Requesting a Transcript

Transcripts for Appeals

Instructions for Completing the Transcript Designation and Ordering Form for Cases on Appeal

Order CD and/or Transcript of Proceedings in Magistrate Judge Cases

PANEL ATTORNEY AND EXPERT TRAVEL

Travel Time

How to Claim Expenses

Mileage, Tolls and Parking

Airplane and Overnight Travel

Meals and Lodging/Per Diem Rates

The Traveler's Responsibilities

NON-REIMBURSABLE ITEMS

CAPITAL PROSECUTIONS AND CAPITAL HABEAS CASES: CASE BUDGETING

CAPITAL HABEAS CASES

Phased Budgeting

Budget Submissions

Support Staff/Experts

Division of Labor

CAPITAL PROSECUTIONS

EXHIBITS

Exhibit A-Calculating Compensation for Time Worked (.pdf)

Exhibit B-Compensation Maximums (.pdf)

Exhibit C-Guidance to Attorneys in Drafting the Memorandum Required for a Compensation Claim in Excess of the Case Compensation Maximum (.pdf)

Exhibit E-Sample Interim Order for Complex Cases (.pdf)

Exhibit F-CJA Voucher Checklists (.pdf)

Exhibit G-Pilot Fee Review Committee Description (.pdf)

Exhibit I-US Marshal's Service, Public Defender's Handbook (Fact Witness Reimbursement) (www.usmarshals.gov)

Exhibit J(1)- Fact Witness Sample Order (.pdf)

Exhibit L-Information Sheet for Expert and Other Service Providers (.pdf)

Perez v. Cate, No. 09-17185 archived on January 25, 2014

Exhibit M-Summary Chart of Responsibility for Payment of Psychiatric and Related Expert Services (.pdf)
Exhibit N-Transcript Rates (.pdf)
Exhibit O-Instructions for Completing CJA Form 24, Authorization and Voucher for Payment of Transcript (.pdf)
Exhibit P-Transcript Designation and Ordering Form (.pdf)
Exhibit Q-Tape Order Form (.pdf)
Exhibit R-Travel Expense Worksheet (.pdf)
Exhibit S-Ex Parte Travel Request Form and Order (.pdf)
Exhibit T-Travel Instructions (.pdf)
Exhibit Ta-Defendant Travel Order (.pdf)
Exhibit U-Instructions for Completing CJA Form 20, Appointment of and Authority to Pay Court Appointed Counsel (.pdf)
Exhibit V-Instructions for Completing CJA Form 21, Authorization and Voucher for Expert and Other Services (.pdf)
Exhibit W-Instructions for Completing CJA Form 30, Death Penalty Proceedings: Appointment of and Authority to Pay Court Appointed Counsel (.pdf)
Exhibit X-Instructions for Completing CJA Form 31, Death Penalty Proceedings: Ex Parte Request for Authorization and Voucher for Expert and Other Services (.pdf)

GENERAL CJA VOUCHER INSTRUCTIONS

These instructions have been prepared to inform CJA panel attorneys of the Court's procedures and provide an understanding of the voucher review process. This manual includes all procedures mandated by the court Northern District of California's CJA Guidelines as revised through October 2001. Answers to questions concerning appointment under the Criminal Justice Act can generally be found in: (1) 18 U.S.C. §3006A; (2) 21 U.S.C. §848(q)(4) et. Seq.; (3) the Criminal Justice Act Plan and General Order No. 50 of the United States District Court for the Northern District of California, available on the court's website at (CJA Information and Forms/General Orders) and through the Clerk's Office; (4) the Criminal Justice Act Panel Attorney Manual for the United States District Court, Northern District of California; (5) the court's website, www.cand.uscourts.gov; and (6) the Guidelines for the Administration of the Criminal Justice Act, published by the Administrative Office of the United States Courts, also available through the library of the United States District Court. Should these references fail to provide the desired clarification or direction, counsel should address their inquiries to the Clerk's Office-CJA Unit or the CJA Supervising Attorney.

Top of Page

Appointment of Counsel and Issuance of Initial Voucher

The Federal Public Defender's Office (FPDO) handles the appointment of counsel in CJA cases, prepares the initial CJA 20 or CJA 30 and forwards the voucher to the judge for approval of the appointment. Upon approval, the judge returns the signed voucher to the FPDO who sends a copy to the appointed attorney along with instructions.

The original CJA 20 or CJA 30 containing the judge's approval is forwarded to the CJA Unit and is maintained in the CJA confidential files. The attorney's copy becomes the payment voucher for the attorneys compensable fees and expenses. If the case will involve interim payments, the attorney should make a written request for authorization to submit interim vouchers. (See Exhibit E-IPO).

Completed vouchers are submitted to the United States District Court, Clerk's Office, Attn:CJA Unit, for processing and payment.

Top of Page

Cross-Reference of Vouchers

If counsel has submitted, or will submit, CJA vouchers for more than one case for the same time period, the voucher for each case must include an attachment stating the name of the defendant and the case number of the other case. Time spent on multiple cases that require overlapping services (e.g., research, attendance at court, travel to visit clients, etc.) should be appropriately allocated among the cases and not charged in full to each case.

[Top of Page](#)

Attorneys' Compensation and Recordkeeping

Attorneys appointed by the court pursuant to CJA are compensated as follows:

Non-capital cases

- January 1, 2010 \$125.00 per hour
- March 11, 2009 to December 31, 2009 \$110.00
- January 1, 2008 to March 10, 2009 \$100.00
- May 20, 2007 to December 31, 2007 \$94.00
- January 2, 2006 to May 19, 2007 \$92.00
- May 1, 2002 to December 31, 2005 \$90.00
- Before May 1, 2002 \$75.00

[Top of Page](#)

Capital Prosecution cases

- January 1, 2010 \$178.00 per hour
- March 11, 2009 Lead, second or co-counsel \$175.00
- January 1, 2008 Lead, second or co-counsel \$170.00
- May 20, 2007 Lead, second or co-counsel \$166.00
- January 1, 2006 Lead, second or co-counsel \$163.00
- February 1, 2005 lead, second or co-counsel \$160.00

For capital habeas cases, the hourly rates effective January 1, 2010 are as set forth in the Judicial Council of the Ninth Circuit Amended CJA Capital Habeas Costs Policy As Amended October 2009.

Attorneys must report work performed in tenths of an hour. Vouchers submitted which record time entirely in quarter hour increments will be returned and expected to be resubmitted in tenth of an hour increments. A table for your convenience is attached at [Exhibit A \(.pdf\)](#).

The court hopes and expects appointed counsel will assist the court by using the least expensive reasonable method to provide high quality legal and other services to indigent defendants. Appointed counsel will not be compensated for work performed by attorneys that could or should be performed by other less expensive authorized staff (e.g., paraprofessionals, clerks, etc.). Whenever appropriate, without compromising the quality of the work, the services should be performed by the least expensive, qualified staff member authorized by the court. For example, lawyers should not expend time for court filings, service of papers, file organization, photocopying, mailing, faxing, etc. Attorneys will not be compensated for secretarial tasks. If an appointed attorney conferences with an associate on an appointed case, only the appointed attorney will be compensated for time. If two attorneys are appointed, conferencing will be approved for limited and reasonable expenditures of time.

Attorneys 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. Such records, which may be subject to audit, must be retained for three years after approval of the final voucher for an appointment.

In support of CJA Forms 20 and 30, counsel shall submit a worksheet in the same format as the worksheets provided in the Criminal Justice Act Panel Attorney Manual for the United States District Court, Northern District of California. The worksheets must detail

Perez v. Cate, No. 09-17185 archived on January 25, 2011

the tasks performed and assign such tasks to categories specified on the voucher. Automated worksheets are available in computer format on the court's website at www.cand.uscourts.gov. Alternatively, counsel may provide supporting documentation from an attorney's timekeeping system in a format which provides 1) itemization of tasks in chronological order; and 2) itemization of tasks sorted by voucher category in chronological order. Worksheets or other supporting statements in any other format are not acceptable and will be returned with the voucher for resubmission.

Each entry shall reflect discrete individual tasks and shall not simply list multiple tasks performed in a specified block of time. Information should be provided in sufficient detail as to permit meaningful review, without violation of the canons of ethics or disclosure of attorney work product, including but not limited to: specification by identifying information of witnesses interviewed (If counsel feels it is inappropriate to provide the name of a witness, identification by type of witness (e.g. "guilt phase witness #1") is sufficient. The court requires sufficient information to distinguish between individuals interviewed.); identification of persons involved in telephone conversations or conferences and topics discussed (A simple description of the general topic of discussion, not specific details, is requested.); specific topics researched; identification of documents reviewed or prepared, including transcripts and pleadings drafted or reviewed, by title and page numbers; and, if necessary for an understanding of the task, explanation of its relevance to the federal proceedings. Aggregate time blocks or entries which are vague or ambiguous will not be approved for payment. If the level of detail is insufficient for auditing purposes, the vouchers will be returned to counsel for resubmission with adequate detail.

When entering time on the out of court worksheet in the "Obtaining & Reviewing Records" column, list the approximate number of pages reviewed if the time is greater than one hour. It is expected that the attorney will review discovery and other documents at a rate of 50 pages or more per hour.

Top of Page

Recycling

Attorneys may claim only for work that is originally prepared for the case in which the voucher is submitted. By submitting a signed voucher, the attorney certifies that the bill submitted contains hours claimed for original work prepared in the current case and does not claim hours for previously-prepared "recycled" documents from this case or other cases.

Top of Page

Maximum Amounts

Attached at [Exhibit B \(.pdf\)](#) is a schedule of the case compensation maximums under the Criminal Justice Act. 18 U.S.C. Section 3006A(d)(3) provides that compensation exceeding the maximum amounts may be authorized in cases where there is complex or extended representation if the Court's delegate, the CJA Supervising Attorney, 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 or his/her delegate. A CJA 26 must be completed and submitted with a voucher that exceeds the case compensation maximums. Vouchers claiming amounts exceeding the case compensation maximum may be returned if not accompanied by a CJA 26. A CJA 26 is not required when the court has already approved interim payments based on the complexity of the case. However, even with an interim payment order in effect, counsel are urged to consider completing a CJA 26 to facilitate approval of the voucher by the delegate at the Ninth Circuit. The attached Guidelines for Memorandum Required of Attorneys with Compensation Claim in Excess of Statutory Maximums at [Exhibit C \(.pdf\)](#) is provided as a guide in the preparation of the CJA 26. Failure to provide adequate information supporting excess fees may result in the reduction of the fees to the case compensation maximum.

Top of Page

CJA 20: Non-Capital Cases

Time Limits:

Volume VII Chapter II, Part C Section 2.21 of the Guide to Judiciary Policies and Procedures states that vouchers shall be submitted no later than 45 days after the final disposition of the case, unless good cause is shown. The policy requires the CJA Unit to ensure that attorneys are complying with the prescribed limits and to make every effort to have the attorneys submit the claim as soon as possible upon completion of services rendered.

Top of Page

Standard Cases:

For cases that are not complex or extended, the CJA 20 voucher shall be submitted no later than 45 days after the final disposition of the case, unless good cause is shown.

Top of Page

Complex or Extended Cases/Interim Payments:

For cases that have been declared complex by the Court or when the appointed attorney believes the case is complex or will be extended, the appointed attorney may make a written request for authorization to submit interim vouchers rather than waiting to bill at the end of the case. The authorization applies to all appointed attorneys and experts in the case. To make the request, the appointed attorney needs to address a letter to the judge assigned to the case, that specifically states that the case has been declared complex by the Court or “due to the complexity or length of the anticipated proceedings, the case is extended or complex, and payment in excess of the statutory maximum is necessary to assure fair compensation.” In the letter, set forth the specific reasons why the case is complex and/or is anticipated to be extended. Send the letter to the CJA Unit for processing and approval. A sample interim payment authorization is attached as

- [Exhibit E \(.pdf\)](#). The authorization is approved by the CJA Supervising Attorney, after consultation with the judge assigned to the case when necessary, and by the Chief Judge of the U.S. Court of Appeals for the Ninth Circuit or his or her representative. This district no longer withholds funds from the interim payments exceeding the statutory maximum. However, all vouchers exceeding the statutory maximums, that are required to be submitted, will be forwarded to the Ninth Circuit Court of Appeals for approval. Because the interim payment order provides that no voucher needs to be submitted if fees incurred during the interim period do not exceed \$750.00, counsel are requested to contact the CJA Technician responsible for the case to advise that a voucher will not be submitted in such circumstances.

Top of Page

Multi-Defendant Cases

In all multi-defendant cases involving more than one CJA appointed attorney, counsel should make all reasonable efforts to coordinate to reduce costs, including joint applications for funding of investigators and other services. The court encourages designation of a coordinating attorney for this purpose. The CJA Supervising Attorney should be contacted for assistance in coordination of multi-defendant cases. If the CJA coordinating attorney will no longer be participating in the case because the case against his or her client has been resolved, the coordinating attorney should write a letter to the judge presiding in the case, advising the judge of the need for a replacement to monitor funding authorizations and to ensure other matters are addressed in a coordinated fashion as the case continues.

Top of Page

CJA 30: Capital Cases

On the CJA 30, Section 10(d) provides for the judge's approval of interim payments at the time of appointment. The CJA Unit will ensure that an interim payment order is generated and signed by the judge. Approval is necessary from the Ninth Circuit. There is no withholding of amounts from interim vouchers submitted on Forms CJA 30 or 31.

Top of Page

Voucher Preparation

Voucher processing requires the review and analysis of vouchers submitted by CJA panel

attorneys to determine that the services rendered and expenses incurred are in accordance with the policies, requirements, practices and procedures of the judiciary. Vouchers are processed, reviewed, and audited in the Clerk's Office CJA Unit and reviewed by the CJA Supervising Attorney for authorization or consultation with the presiding judge. Checklists for ensuring that each voucher is complete are included as [Exhibit F \(.pdf\)](#). Voucher review by the CJA Supervising Attorney or judge includes an assessment of whether or not the fees and expenses are reasonable for the activity or task involved.

As previously stated, if no interim payment order has been filed and the claim exceeds the statutory maximum, a declaration letter **must** accompany the final voucher. See page 2, Maximum Amounts.

[Top of Page](#)

Voucher Review

Effective, June 15, 2001, the court delegated review of vouchers to the CJA Supervising Attorney in the following circumstances:

All vouchers for attorneys in criminal cases; all vouchers for service providers requesting payments under \$800.00 or that are within funding limits preauthorized by a district court or magistrate judge in felony, misdemeanor, and other cases; all vouchers in capital habeas cases in which the expenditure has been authorized in a budget approved by a district court judge; all vouchers for interpreters and transcription services where the payment requested is under \$800.00, or the expenditure has been authorized by a district court or magistrate judge. The CJA Supervising Attorney will review vouchers for reasonableness in consultation with the judge presiding in the case and will consult with the presiding judge where a reduction of more than \$450.00 is proposed. If a reduction is contemplated, the CJA Supervising Attorney will send a written notice of the proposed reduction to the panel attorney; the panel attorney will be afforded 14 days to accept the proposed reduction or respond in writing, outlining any reasons why the reduction is not appropriate. A final decision will be provided in writing. A notice will not be sent if the reduction is based upon simple computational errors or failure to comply with requirements outlined in the CJA Manual. The claimant may contact the CJA Unit to request a copy of any modified voucher or to inquire as to the reasons for any reduction.

[Top of Page](#)

Approval and Payment

If the payment is certified in excess of the statutory maximum, the voucher is sent to the Chief Judge of the U.S. Court of Appeals for the Ninth Circuit for review and final approval.

After final approval, the voucher is returned to the Clerk's Office for processing for payment. Counsel will be only be provided with a copy of the approved voucher if adjustments or reductions have been made in the auditing or approval process. Payment will be mailed from the Administrative Office of the U.S. Courts in Washington, D.C. within one to two weeks thereafter.

[Top of Page](#)

Supplemental Claims

If counsel needs to submit a supplemental claim for services rendered after the case is completed, counsel may do so by completing an additional voucher which should be designated as a "Supplemental to Final" voucher.

[Top of Page](#)

Appeal of Voucher Reduction

The Court has established a Fee Review Committee, which is composed of highly-experienced CJA panel attorneys. A copy of the approved proposal which outlines the committee structure, purposes and functions is attached as [Exhibit G \(.pdf\)](#). The Fee Review Committee is effective prospectively as of October 18, 2001, the date of approval by the Court. Therefore, an appeal may be filed as to any decision on a voucher dated after the effective date. As indicated in the proposal, the Court may initiate review of vouchers

submitted. In addition, if an attorney disputes the court's reduction of a voucher in excess of \$450.00, the panel member may submit a written request to the CJA Supervising Attorney for review by the committee. The Court will give significant weight to the Fee Review Committee's recommendation in making a final determination, and it is anticipated that the recommendation will be presumptively adopted by the court; in an exceptional case, the court may modify the recommendation. Whether or not the initial recommendation of the Fee Review Committee is adopted by the Court, the Court's decision is final and there shall be no right of review. In order to receive appointments in the Northern District, all panel attorneys must execute the Addendum to Application for Membership on CJA Panel that is included in the CJA Panel Application.

[Top of Page](#)

Routing

All vouchers, funding requests, proposed orders, and other supporting documents should be submitted to the Clerk's Office-CJA Unit in San Francisco. This enables the CJA Unit to track the progress of submissions and ensure timely authorization of funding requests. All approved orders will be served on the attorney by the CJA Unit.

[Top of Page](#)

Confidentiality of CJA Documents

All CJA documents shall be filed in the confidential CJA files maintained by the CJA Unit of the Clerk's Office. A sealing order is not required. CJA documents include vouchers (CJA forms 20, 21, 24, 30 and 31), the Financial Affidavit (CJA form 23), all supporting documentation, budget plans and orders, funding requests and authorizations, interim payment orders, and travel requests and orders. Documents maintained in the CJA financial file shall not be disclosed to the public except as provided by statute, by the Guide to Judiciary Policies and Procedures, or by order of the court.

[Top of Page](#)

No Sealing Requests for CJA Vouchers or Funding Requests

In light of this court's policy regarding confidentiality of CJA vouchers and funding orders, it is not necessary to request sealing of CJA documents, **and counsel shall not file such requests.** All sealing requests for CJA documents will be disregarded and will not be processed. To assist the clerk's office staff in recognizing CJA related documents, please make sure that any pleading directly related to CJA funding includes CJA in the title of the document. In addition, if the panel attorney does not want opposing counsel to be served with CJA documents, the title of the document must clearly state "Ex Parte Pursuant to CJA".

[Top of Page](#)

Status of Vouchers

The CJA Unit makes every effort to expedite the processing of vouchers. Vouchers that are in compliance with this Manual and the CJA Guidelines take less time to audit and approve. Payment of the vouchers required to be sent to the Ninth Circuit for approval may be delayed. Appointed attorneys are requested to refrain from contacting the CJA Unit to check on the status of a voucher until 60 days has elapsed from submission of the voucher.

[Top of Page](#)

1099 Reporting

The Taxpayer Relief Act of 1997 requires that the court track and report to the IRS all payments made to CJA panel attorneys, regardless of the amount. This will be done by obtaining the Social Security number of appointed counsel at the time of appointment, however, the Social Security number has been removed from the new CJA 20 and CJA 30 forms to protect the attorneys' privacy. If the attorney has a pre-existing agreement with his/her law firm, the 1099 will still be reported under the law firm's tax identification number and not the attorney's number. Prior rules did not require 1099s to be issued

when payments made to incorporated firms or payments totaled less than \$600 in a calendar year, but now all payments are subject to reporting. In addition, beginning with calendar year 1999, amounts reported to IRS include expenses reimbursed. This is a change from the former practice of reporting only direct compensation to IRS, and is consistent with the reporting guidelines.

In certain circumstances, income should more appropriately be included on an employer's 1099 instead of the 1099 for a service provider, e.g., paralegal or investigator who is actually in the employ of an attorney. Please contact the CJA Unit in these circumstances to ensure the 1099 reporting will be reflected correctly.

[Top of Page](#)

REIMBURSABLE EXPENSES

Reimbursable out-of-pocket expenses incurred in connection with a CJA representation may be claimed on the CJA Form 20 or 30 voucher. Necessary and reasonable expenses will be compensated over and above fee maximums.

Supporting Documentation

Expenses should be thoroughly itemized on the Other Expense Worksheet and documented in the form of original receipts, invoices and office records, as required, which verify costs incurred. Receipts are required for any individual item costing more than \$25.00 and all expenses over \$50.00. Receipts must always be provided for the following expenses:

- Outside copying, regardless of amount;
- Travel expenses (such as lodging, phone calls);
- Premium delivery and messenger services such as Federal Express, UPS, etc.;
- Taxi fares, airport and/or regular parking fees, ferries, shuttles, and toll fees over \$25.00;
- Phone charges over \$50.00 per month;
- Postage over \$50.00 per incident.

Receipts should be taped to white 8-1/2" x 11" paper in chronological order as itemized on the Other Expense Worksheet. More than one receipt can be attached to each sheet of paper. Reimbursement may be delayed because of failure to itemize or supply sufficient documentation of expenses. Vouchers not in compliance will be returned to counsel.

[Top of Page](#)

Associates in the Same Firm

It is expected that appointed counsel will personally appear and participate in all proceedings related to plea, detention, substantive motions, trial and sentence. In any case where appointed counsel will be assisted by associate counsel, appointed counsel must seek prior approval before work commences. The request for such services shall be submitted in writing to the CJA Supervising Attorney and shall briefly outline the functions and tasks to be performed by associate counsel.

By accepting appointment pursuant to the CJA, appointed counsel is obliged to ensure the aggregate hours expended by appointed counsel and the associate are reasonable. The use of associate counsel will ordinarily reduce the hours expended by appointed counsel, and the aggregate hours expended by all counsel should be reasonably necessary for adequate representation.

Payment under the CJA in such instances may be made to appointed counsel only for compensable time spent by counsel, plus allowable expenses. The coordination of efforts between members of the same firm authorized to work on a case is the responsibility of the firm and not a reimbursable cost. If an appointed attorney associates another attorney within the same firm on an appointed case, only the appointed attorney will be compensated for reasonable time spent conferencing with the associate. Only one attorney will be paid for attending hearings, joint defense meetings, jail visits, meetings with clients or other meetings.

Associate counsel are to be compensated at the rate of \$75.00 per hour, unless the firm rate is lower. If the associate counsel possesses more experience or the work to be performed justifies a higher rate, the associate counsel may be compensated up to the rate of \$115.00 per hour. Appointed counsel should include justification for the higher rate in the request for such services. The billing should be on a CJA 20 or 30 voucher. The worksheets and voucher must specify the associate's name, hours, and the work performed.

Top of Page

Assistant Counsel (Independent of a Firm)

Unless the judge has made a finding and appointed assistant counsel in a case, prior judicial approval is required for CJA funding of assistant counsel outside the firm.

The request for such services shall be submitted to the CJA Supervising Attorney in writing in the form of an Application, Supporting Declaration, and Proposed Order. The declaration shall briefly outline the functions and tasks to be performed by assistant counsel, the hourly rate to be paid in compliance with CJA Guidelines and a "not to exceed amount" that is anticipated for the services.

By accepting appointment pursuant to the CJA, appointed counsel is obliged to ensure that the aggregate hours expended by appointed counsel and the assistant counsel are reasonable. The use of assistant counsel will ordinarily reduce the hours expended by appointed counsel, and the aggregate hours expended by all counsel should be reasonably necessary for adequate representation.

Payment under the CJA in such instances may be made to assistant counsel only for compensable time spent by counsel plus allowable expenses. The coordination of efforts between appointed counsel and assistant counsel authorized to work on a case is the responsibility of the appointed counsel. If an appointed attorney uses an approved assistant counsel on an appointed case, only the appointed attorney will be compensated for reasonable time conferencing with the assistant counsel. Only one attorney will be paid for attending hearings, joint defense meetings, jail visits, meetings with clients or other meetings.

Assistant counsel are to be compensated at the rate of \$75.00 per hour. If the assistant counsel possesses more experience or the work to be performed justifies a higher rate, the assistant counsel may be compensated up to the rate of \$115.00 per hour. Appointed counsel should include justification for the higher rate in the declaration supporting the application. The billing should be on a CJA 20 or 30 voucher.

Top of Page

Paralegals

Use of paralegals is encouraged but must be pre-approved if the expenditure will exceed \$800.00, whether independent or employed in the same firm as appointed counsel. With the prior approval of the court, paralegals may perform case preparation services that are distinct from normal clerical support services. The CJA guideline rate is \$35.00 to \$55.00 per hour, depending on skills and experience. For paralegals who are employees, the appropriate hourly rate is the salaried hourly rate, plus costs of employer-paid basic benefits. Whether in house or independent, paralegals must be billed on a separate CJA 21 or CJA 31, even if the payee is the attorney or law firm.

Top of Page

Computerized Legal Research

Computerized legal research fees are considered office overhead, as are other fees for library items. All CJA panel attorneys are expected to subscribe to a flat-fee research plan and the court will only provide reimbursement for computerized research when an explanation is provided: e.g., that fees imposed are outside the scope of the flat fee plan or why a flat fee plan is not feasible.

Top of Page

Photocopying

All in-house copying done in the attorney's office, regardless of the number of copies made per copy job or per case, will be reimbursed at \$.10 per page without prior approval. In-house copies are reimbursed as an expense on a CJA 20 or CJA 30. Small outside copying jobs paid by the attorney are also reimbursed on a CJA 20 or 30 with a copy of the receipt attached. Large copy jobs should be handled outside the attorney's office at a negotiated rate more economical to the government and prior approval must be obtained for copy expenses over \$800.00 per copy job.

All outside copying expenses are reimbursed on a CJA 21 or CJA 31 supported by a copy of the invoice from the copy company.

Interim reimbursement may be requested and should be authorized when counsel's reasonably-incurred out-of-pocket expenses for duplication of discoverable materials made available by the prosecution exceeds \$800.00.

Top of Page

Fax and Phone

Toll and long-distance charges for out-going case-related faxes and telephone calls are reimbursable, but local charges are not. Flat per-page fax charges are not reimbursable. Telephone toll charges in excess of \$50.00 per month should be supported by a marked copy of the telephone bill.

Top of Page

Postage

Reimbursement will be made for the actual cost of case-related regular U.S. postage. Receipts are only required if the postage cost exceeds \$50.00 per instance.

Top of Page

Messengers/Couriers/Express Delivery Services

The use of messengers, couriers, and express delivery services (e.g., Federal Express, Airborne Express, etc.) is discouraged unless there is a genuine necessity for this service. Receipts are required. The court favors timely filings by mail; costs of the above-listed services will be reimbursed for limited use.

Top of Page

Fact Witnesses

Expenses related to the testimony of a fact witness, either at trial or a deposition, including service of subpoenas, transportation and other expenses, are governed by Rules 15 and 17, Federal Rules of Criminal Procedure and 28 United States Code § 1825. Complete information about the process can be found on the website of the U.S. Marshal's Office. (See [Exhibit I \(www.usmarshals.gov ...\)](#), General Info U.S. Marshals PD Handbook).

Appointed counsel need to apply directly to the court (not through the CJA Unit) for an order approving the transportation of a fact witness. Once judicial approval is obtained, appointed counsel need to coordinate the travel and reimbursement of the expenses directly with the appropriate branch (San Francisco, Oakland or San Jose) of the U.S. Marshal's Office. A sample order for submission to the court is provided in [Exhibit J\(1\) \(.pdf\)](#).

Top of Page

State Court/Other Ancillary Matters

Work related to state court proceedings or other ancillary matters will not be compensated unless the attorney obtains prior authorization from the court. If no prior authorization is obtained, a letter explaining the services must be submitted in support of the voucher and the payment will require approval by the judge presiding in the case. See Guide to Judiciary Policies and Procedures, §2.01F.

Top of Page

Perez v. Cain, No. 09-47185, archived on January 25, 2011

REIMBURSABLE FEES FOR EXPERTS AND OTHER SERVICE PROVIDERS

Funding Requests for Services Exceeding \$800.00

18 USC §3006A(2) provides that, in the absence of a subsequent finding by the judge that the services could not await prior authorization, no payment over \$800.00 may be made without prior authorization by the judge. Additionally, 18 USC §3006A(e)(3) provides that compensation to any person providing expert services cannot exceed \$2,400.00 unless authorized as a necessary payment.

The request for such services shall be submitted in writing to the CJA Supervising Attorney in the form of an Application, Supporting Declaration, and Proposed Order.

Top of Page

Specificity in Funding Request

18 USC §3006A(e)(3) provides for payments above the maximum where necessary to provide for fair compensation for services of an unusual character or duration. Any excess payment to an expert requires: (1) A declaration from the appointed attorney justifying the payment; (2) a certification by the trial judge authorizing payment; and (3) approval by the Chief Judge of the U.S. Court of Appeals for the Ninth Circuit (or a circuit judge delegated that responsibility). The justification declaration from the appointed attorney must set forth the reasons for the expert service requested, including the basis for excess payment if the amount requested for any expert exceeds \$1,000; the name and address of the expert and the expert's specialty, e.g., investigator, forensic pathologist; the hourly rate and the projected total hours expended with a justification for that total. Appointed counsel will negotiate the lowest reasonable compensation rate and total time required with the expert. The court has approved presumptive rates for various types of experts.

Top of Page

No Payments in Excess of Amount Authorized

As a practical matter, virtually all expert expenditures require pre-authorization by the judge. The judge should approve the appropriate rate of compensation and set a cap for the total expenditure authorized. Upon approval of funds for investigative services, experts, or other services, counsel is responsible for providing a copy of the authorization order to the service provider and communicating with the service provider to ensure that services comply with specific terms of the court order and do not exceed the amount authorized. An Information Sheet for Experts and Other Service Providers is attached as [Exhibit L\(.pdf\)](#), which can be given to any provider, outlining the terms of appointment and process for submitting vouchers. The CJA Supervising Attorney is not authorized to approve compensation for any claim for reimbursement of service providers which exceeds \$800 and has not been preauthorized. Claims in excess of the \$800 limit or exceeding the amount authorized by the judge will not be paid. The attorney will be advised of the amount which cannot be reimbursed and instructed to request additional funding authorization. If authorization is subsequently granted, a new voucher may be submitted for the uncompensated amount.

Top of Page

Order Final Upon District Court's Approval

Funding orders signed by a district court judge will be considered a final order. Therefore, once signed, a copy of the order will be immediately served on counsel. The CJA technicians will thereafter forward the original signed order to the Circuit for approval and maintain a copy of the order approved by the Circuit. If the Circuit disapproves the order, the Clerk's Office will immediately provide a copy of the order to the district judge to permit the judge to contact counsel, terminate further use of the services, or resolve the problem as the court finds appropriate.

Top of Page

Submission and Routing of Funding Requests

Perez v. Cate, No. 09-17185 archived on January 25, 2011

All funding requests, even when the ultimate destination is to the divisions in San Jose or Oakland, should be submitted for routing through the CJA Office in San Francisco. This allows our office to track the requests and monitor whether the order has been signed, avoiding delay for attorneys and service providers.

Top of Page

Service on Opposing Counsel /Confidentiality of CJA Funding Requests

Pursuant to rules of court, all pleadings filed with the court are served on opposing counsel with the exception of documents that are approved to be filed *ex parte* pursuant to ex parte motion. Criminal Local Rule 47-4 governs ex parte motions. ***Any ex parte document should have the "Ex Parte Pursuant to CJA" on the first page below the title of the document***. This will help to ensure that orders are not served on opposing counsel.

There is no need to request sealing of CJA funding requests or orders.All CJA documents are maintained in confidential files and will not be disclosed absent statutory requirement or court order. All sealing requests will be disregarded and will not be processed.

Top of Page

Expert Vouchers

As outlined above, all expenses over \$800.00, including but not limited to copying, investigators, experts, and paralegals, must be pre-approved before payment will be authorized. The funding order must be attached to the voucher requesting payment for such services. ***Without a funding order, the voucher will be returned to the attorney and will not be paid.***

Appointed counsel are responsible for requiring experts to submit invoices which are sufficiently detailed to permit review in a similar matter to that described for appointed counsel. Appointed counsel must review the expert's invoice and voucher to ensure the service provider's claim is consistent with the appointed attorney's instructions and accurately reflects the services actually rendered. By signing the attorney certification on the CJA 21 or CJA 31, the attorney certifies the validity and appropriateness of the services provided by the expert. Counsel are not authorized to pre-pay experts and request later reimbursement. All expert expenses must be submitted on a separate CJA 21 or 31.

Top of Page

CJA 21:

If the expert has been retained on a one-time, non-recurring basis, the attorney may submit the CJA 21 for payment in full before the end of the case.

For cases that are complex or extended, or cases in which the expert's services are required during the pendency of the case, the attorney may request and justify periodic or interim payments to the experts rather than waiting until the end of the case. The approval of both the trial judge and Chief Judge of the Court of Appeals of the Ninth Circuit must be obtained.

Top of Page

CJA 31:

For cases commenced on or after April 24, 1996, an interim payment order must be approved by the judge and by the Chief Judge of the U.S. Court of Appeals for the Ninth Circuit. For all cases commenced on or after April 24, 1996, the fees and expenses for investigative, expert and other services are limited to \$7,500 for all services in any case unless payment in excess of that amount is certified by the trial 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 U.S. Court of Appeals for the Ninth Circuit. Please refer to the instructions herein for the CJA 31 and the memorandum for advanced authorization attached as Exhibit K.

Top of Page

Expert Presumptive Rates

Expert Presumptive Rates in Cases Other Than Capital Habeas Cases Effective January 1, 2009:

The following rates have been approved for experts in the Northern District of California effective January 1, 2009 for cases other than capital habeas cases:

- Psychiatrists and other medically-licensed mental health experts, \$275-\$350 per hour;
- Other forensic experts, \$125-\$200 per hour;
- Psychologists (Ph.D.), \$150-\$250 per hour;
- Neuropsychologists, \$200-\$275 per hour;
- Attorneys serving as experts, \$160 per hour;
- For any expert listed above who testifies at a court proceeding, compensation is eight times the hourly rate per day or four times the hourly rate per half day.

Absent court approval, hourly rates for experts may not exceed the presumptive rates. In exceptional circumstances, when the need for services at a higher hourly rate can be justified, the court may authorize hourly rates above the presumptive maximum.

[Top of Page](#)

Expert Presumptive Rates For Capital Habeas Cases Effective October 30, 2008:

The following rates have been approved for experts in capital habeas cases by the Judicial Council of the Ninth Circuit:

- Psychiatrists and other medically licensed mental health experts, \$275 per hour;
- Other Forensic experts, \$200 per hour;
- Psychologists (Ph.D.), \$200 per hour;
- *Strickland* experts, up to the maximum allowable for CJA counsel;
- Any expert listed above testifying at a court proceeding shall receive eight times the hourly rate for a full day or four times the hourly rate for a half day, or the actual hours, whichever is less.

Absent court and Judicial Council approval, experts may not exceed the presumptive rates.

[Top of Page](#)

Investigators

Investigators are required to observe the same guidelines as attorneys for recordkeeping and using the least expensive, reasonable method to provide services to indigent defendants. Those guidelines are set forth in the "Attorneys' Compensation and Recordkeeping" section of the manual.

[Top of Page](#)

For Cases Other Than Capital Habeas

- The hourly rate for investigators is \$55 to \$75 per hour, depending on skill and experience. If the investigator is proficient in the foreign language of the case, the rate, when the investigator uses the skill of the foreign language, is from \$65 to \$85 an hour.
- The hourly rate for direct death investigators is from \$75 to \$100 an hour, depending on skill and experience.

[Top of Page](#)

For Capital Habeas Cases

- The hourly rate for investigators is up to \$75.00 per hour.

Top of Page

Interpreters

In court, certified interpreters are paid for by the Clerk of Court at a rate of \$384 for a full day, and \$208.00 for a half-day . A courtroom interpreter hired by the Clerk whose services are not needed in the courtroom, may be used by CJA counsel for out-of-court CJA services for the remainder of the period for which the interpreter's services were contracted. To arrange for the services of an interpreter between the hours of 8:30 a.m. - 12:30 p.m. and 1:00 - 4:00 p.m., attorneys should contact the Spanish Staff Interpreter at (415) 522-2655 for Spanish speaking interpreters and the Jury Office at (415) 522-2124, for all other languages.

The Clerk of the Court's rate is not to be used for interpreter services billed through CJA. The CJA rate is \$65.00 per hour (services plus travel time), rounded to the next full hour for each separate occasion. The interpreter is also entitled to travel expenses. All interpreter expenses should be billed on a CJA 21 or 31. The CJA Unit has created and distributed an easy-to-use form for the interpreters which is available in the CJA Manual under "CJA Forms & Instructions".

Although uncommon, cancellations of interpreter appointments occur. Some interpreters require a 24-hour cancellation or a two-hour minimum fee is imposed. If billed, according to the Office of Defender Services of the Administrative Office of the United States Courts, if a reasonable explanation is provided, CJA may compensate only for actual out of pocket expenses of mileage and the time required to get to and from the appointment. Accordingly, please ensure that you give the interpreters as much notice as possible if you need to cancel. Interpreters are an integral and valuable part of effectively representing indigent defendants.

The hiring of an interpreter is normally considered a one-time expense which may be billed by the interpreter immediately. If the attorney anticipates a continuing need for interpreter services over \$800.00, a funding order must be obtained in accordance with the CJA Guidelines for expert or other ancillary services.

Top of Page

Psychiatrists, Psychologists

CJA funds are used to pay for psychiatric and related services obtained in accordance with Subsection (e) of the CJA upon a determination that the services are "necessary for an adequate defense." These are "defense" services, where the defendant selects the expert and controls the disclosure of the expert's report. It is important to note that psychiatrists and related experts may be used in many circumstances in which payment is made from a source other than the CJA appropriation. In these situations the court or the government selects the expert, and persons other than the defendant also have access to the expert's report. The Department of Justice (DOJ) generally pays for these "non-defense" services. [Exhibit M \(.pdf\)](#) summarizes payment responsibility for the various circumstances in which psychiatric and related services are utilized.

Top of Page

Depositions

In any case where depositions are required, counsel should contact the CJA Supervising Attorney for specific information regarding funding.

Top of Page

Transcripts of Proceedings in District Judge Cases

Fees for transcripts furnished in criminal proceedings to persons proceeding under the Criminal Justice Act are paid on the CJA 24 by the United States out of CJA funds appropriated for that purpose.

When a transcript is paid for by the United States, the court reporter may not require any party requesting the transcript to prepay an estimated fee in advance. The court reporter must prepare such transcript in the format prescribed by the U.S. Judicial Conference and may not exceed the rates for transcripts established by the Judicial Conference in effect at the time the authorization was made. The court reporter will not commence transcription services until the CJA 24 has been duly approved by the judge.

Top of Page

Transcript Rates

Refer to attachment at [Exhibit N \(.pdf\)](#).

Top of Page

Multi-Defendant Cases

In multi-defendant cases involving CJA defendants, no more than one transcript should be purchased from the court reporter on behalf of all CJA defendants. One of the appointed counsel should then arrange for the duplication, at commercially competitive rates, of enough copies of the transcript for each of the CJA defendants for whom a transcript has been approved. The cost of such duplication will be charged to the CJA appropriation. This policy would not preclude the furnishing of duplication services by the court reporter at the commercially competitive rate.

Top of Page

Procedure for Requesting a Transcript

Refer to [Exhibit O \(.pdf\)](#) entitled "Instructions for Completing CJA Form 24, Authorization and Voucher for Payment of Transcript." Follow the detailed instructions for completing Items 1-14. If special authorizations are requested in Item 14, attach a detailed justification. Sign, date and complete Item 15 and forward the voucher to the Clerk's Office, CJA Unit.

The Clerk's Office, CJA Unit will record the request and forward it to the judge for approval in Item 16 and Item 14 if special authorizations were requested in Item 13. Following approval, the CJA Unit will forward the voucher to the court reporter. The court reporter will prepare the transcript, fill out Items 17-21 on the voucher, and send the transcript and the voucher to the attorney. The attorney should sign Item 22 signifying receipt of the transcript and forward the completed voucher to the CJA Unit for final approval, processing and payment.

Ordinarily, the court reporter should bill the court directly for transcript services. In the rare circumstance that counsel has paid for the transcript, reimbursement may be sought by listing the attorney's name as the payee in Item 18 of the CJA 24. A copy of both the front and back of the canceled check should be attached showing payment was made to the court reporter.

Top of Page

Transcripts for Appeals

Judicial Conference policy states: "It is the sense of the Conference that a substantial number of criminal appeals can be fairly conducted without a full transcript of all testimony and proceedings... All counsel should be required to exhaust all efforts to perfect appeals without full trial transcripts, by use of such traditional devices as preparation of limited transcripts, and preparation of an agreed statement or other summary of the evidence." (Report of the Proceedings of the Judicial Conference of the United States, October 1971, pages 61-62.)

Counsel should refer to the Local Rules of the U.S. Court of Appeals for the Ninth Circuit which require that **within 10 days after filing the notice of appeal**, the appellant shall order from the reporter a transcript of such parts of the proceeding as he or she deems necessary, subject to the local rules of the Court of Appeals.

Transcripts for a case on appeal are requested through a Transcript Designation and

Ordering Form. Refer to the next subsection of this manual entitled “Instructions for Completing a Transcript Designation and Ordering Form” below. Proceed to complete and file the CJA 24, Authorization and Voucher for Payment of Transcript, as outlined in this packet.

Top of Page

Instructions for Completing the Transcript Designation and Ordering Form for Cases on Appeal

The Transcript Designation and Ordering Form (NDC-TDO 7/98), copy attached at [Exhibit P \(.pdf\)](#), should be used to comply with the Federal Rules of Appellate Procedure and the Local Rules of the U.S. Court of Appeals for the Ninth Circuit regarding the designation and ordering of court reporter’s transcripts.

Complete and sign Section A, using caution to list hearing dates with different court reporters. The form should be typed or neatly and clearly printed. Since the Transcript Designation and Ordering Form contains multiple carbonized copies, error correction is critical. Strike overs are impossible to read on the carbon copies. If a number is incorrectly typed, it should be neatly lined out and the correct number retyped next to it. All changes or corrections should be initialed by the attorney. Use of white out is not permitted on the original or any of the carbon copies.

Send all copies of the Transcript Designation and Ordering Form to the Intake Section of the U.S. District Court. After the original is filed and the copies are conformed, Copy One is retained by the court. Send Copy Two and Copy Three to the court reporter. Send Copy Four to opposing counsel, making additional photocopies as necessary for opposing counsel. Make additional photocopies as necessary to attach to the CJA 24, Authorization and Voucher for Payment of Transcript, as discussed below.

Contact the court reporter(s) to make further arrangements for payment and to determine which transcripts will require the preparation of a CJA 24, Authorization and Voucher for Payment of Transcript, noting that a separate CJA 24 must be generated for each individual court reporter. Proceed to complete the CJA 24, Authorization and Voucher for Payment of Transcript, according to the instructions herein, and attach a copy of the Transcript Designation and Ordering Form to each separate CJA 24 generated.

Perez v. Cate, No. 09-17185 archived on January 25, 2014

Top of Page

Order CD and/or Transcript of Proceedings in Magistrate Judge Cases

When proceedings before Magistrate Judges are recorded on a CD, a request for a free duplicate copy of the CD may be made by completing the CD Order form (AO 436, Rev. 12/04). A copy is available in the CJA Manual as [Exhibit Q \(.pdf\)](#). The CD Order form should be mailed or delivered to the Clerk’s Office Intake Section addressed to the courtroom deputy for the applicable Magistrate Judge. The Clerk’s Office will not accept verbal requests or requests other than on the CD Order form. There is no fee for reproduction of a CD requested by CJA appointed counsel in connection with a CJA case.

Once the CD has been copied by the Clerk’s Office, it will be mailed to the attorney.

If the attorney wishes to obtain a written transcript of the contents of the CD, he/she will need to complete a CJA 24 form and [Transcript Order form \(.pdf\)](#). Contact the following staff of the Clerk’s Office [Debra Campbell (415) 522-207, San Francisco and Eureka Divisions, Odile Hansen 510-637-3534, Oakland Division and Snooki Puli 408-535-5380, San Jose Division] to be assigned an approved transcriber. Submit the completed CJA 24 and Transcript Order form (AO 435) to the CJA Supervising Attorney for approval and processing.

Once the transcript is prepared, the transcription service will complete the CJA 24 and send the CJA 24, with a copy of their invoice, to the attorney. The attorney should sign and date box 22 on the CJA 24 form to verify receipt of the transcript and the cost, then forward it to the CJA Unit to process for payment.

Top of Page

Travel Time

Compensation shall be approved for time spent for necessary and reasonable travel. Ordinarily, allowable time for travel includes only those hours actually spent in or awaiting transit. For further clarification on travel time, refer to the Guide to Judiciary Policies and Procedures, Volume VII, Chapter II, Part 2.26. Travel time should be recorded in the Out-of-Court section of the CJA 20, Item 16(d) or the Travel section of the CJA 30, Item 15(I). Travel time for experts should be claimed under compensation on the CJA 21 or 31, Item 16(a).

[Top of Page](#)

How to Claim Expenses

For guidance in claiming daily travel expenses on the CJA voucher, refer to the instructions for the appropriate form of CJA 20, 21, 30 or 31. Note: When submitting a voucher with trip expenses, please use the Travel Expense Worksheet attached as Exhibit R and organize the expenses and receipts by date incurred.

[Top of Page](#)

Mileage, Tolls, and Parking

Daily travel in a privately owned vehicle does not require prior authorization. The extent of the daily travel must have been reasonable and necessary. Travel by privately owned vehicle is reimbursed at the mileage rate prescribed for federal judiciary employees who use a vehicle for the conduct of official business. Refer to the mileage chart (under "Travel Information") on the CJA website for the mileage rates. If a rental car is authorized, the traveler is reimbursed for the cost of the rental and the gas. Receipts must be submitted for both the rental and the gas. Other reimbursable costs are parking fees, public transportation (BART, Muni, Ferry) fares and bridge tolls. Airfare is limited to the government authorized rate and must be pre-approved.

Meals are not reimbursable during daily travel unless the travel period exceeds ten (10) hours.

[Top of Page](#)

Airplane and Overnight Travel

All overnight travel and all travel by airplane must be approved in advance by the CJA Supervising Attorney on an Ex Parte Travel Request and Order ([Exhibit S](#)) (.pdf). Compensation will be approved for time spent in necessary and reasonable travel. Ordinarily, allowable time for travel includes only those hours actually spent in and awaiting transit.

Please [visit the GSA website for current per diem rates \(www.gsa.gov ...\)](#) and contact National Travel (NT) to determine government travel fares to provide an accurate estimate. Panel attorneys and experts are allowed and encouraged to take advantage of government rates for travel. A special account has been established with NT which will facilitate direct billing to the government of the authorized airfare. NT may be contacted at any time, 24/7, at 1-800-445-0668, to obtain travel cost quotes. If air travel expenditures cannot be made at government rates, reimbursement to the attorney or expert for the travel costs will be limited to the amount of the government rate. Government tickets are refundable due to loss, change, or cancellation. If the traveler uses a non-government rate and loses the tickets or needs to change or cancel the reservations, he or she is liable for the cost; is not reimbursable under CJA.

The attorney must state on the Ex Parte Travel Request and Order the purpose, itinerary, duration, and estimated expenses for the trip. Travelers must travel in coach class; any other arrangements must be detailed and specifically approved. The completed Travel Request and Order ([Exhibit S](#)) (.pdf) should be submitted by e-mail, fax, or regular mail to the CJA Unit. If approved, the CJA Unit will e-mail or fax the attorney the approved Travel Request and Order and further travel instructions ([Exhibit T](#)) (.pdf) which will enable the traveler to contact NT and make his/her travel arrangements at government rates. If the attorney is not the traveler, it is the attorney's responsibility to fax the Travel

Request and Order to the traveler. Travel arrangements must be finalized promptly after the travel is authorized.

If for any reason the traveler is unable to use the airline tickets issued by NT, it is his or her responsibility to immediately return the unused tickets to NT with a letter explaining why the tickets were not used and notify the CJA Unit.

Top of Page

Meals and Lodging/Per Diem Rates

Actual expenses incurred for meals and lodging while on overnight travel outside of the city or county of your residence in the course of a CJA representation must conform to the prevailing limitations governing travel and subsistence expenses of federal judiciary employees. Since the amount allowable is dependent upon the place of travel, please [consult the GSA website](#). Meals and lodging are included in per diem rates; other expenses, such as taxi fares, rental car charges, etc. are not included in the per diem rate and may be claimed separately if receipts are provided.

Meals are generally only reimbursable when overnight travel is authorized. You must provide detailed restaurant bills and not just credit card slips. Alcoholic beverages, in-room movies, and other non-essential items are not reimbursable.

Top of Page

The Traveler's Responsibilities

Upon submission of the CJA 20, 21, 30, or 31 voucher for reimbursement for the period of the authorized trip, all expenses (except airfare) should be documented in the form of original receipts which verify costs incurred. The expenses should be submitted, itemized, and in chronological order. For your use in organizing the receipts and expenses by date, please use the Travel Expense Worksheet [Exhibit R \(.pdf\)](#).

Top of Page

NON-REIMBURSABLE ITEMS

The following are NOT reimbursable under CJA:

- General office overhead, such as secretarial help (whether regularly or specially employed), rent, office supplies, or equipment; telephone lines or service (although telephone toll calls and telegrams are reimbursable). Attorneys will not be compensated for secretarial duties such as filing of court documents, mailing, faxing, copying, etc.
- Books, journals, or other publications.
- Computerized legal research, except when fees exceed flat fee agreement. (See section entitled "Computerized Research," p. 9, *supra*.)
- Billing for time needed to prepare vouchers, except in extraordinary circumstances.
- Taxes paid on attorney compensation received pursuant to the CJA, whether based on income, sales, or gross receipts.
- The cost of printing briefs is not reimbursable, although the cost of photocopying, or similar copying services is reimbursable.
- Filing fees: These fees are waived for persons proceeding under the CJA. Fees for deeds of trust to secure a defendant's release are not compensable under the CJA; these fees are paid for by the person(s) securing the collateral.
- Personal items and services for the client, such as clothing, cleaning or pick up or delivery of clothing or personal items, hair cuts, cigarettes, transportation, lodging, travel, meals, costs of assisting the defendant in the disposition of his or her personal property, arranging for the placement of minor children of the defendant, assisting the defendant in executing the conditions of probation, assisting the defendant in modifying bond terms such as drafting applications for

Perez v. Cate, No. 09-17185 archived on January 25, 2011

his or her travel, providing legal assistance in matters unrelated to the litigation of the case although incidental to the defendant's arrest, etc. Payments by counsel for such items will not be reimbursed.

- Alcoholic beverages.
- Costs related to educational seminars, including travel, attendance, registration or materials.
- Expenses related to the testimony of a fact witness, either at trial or deposition, including service of subpoenas, transportation and other expenses, are not reimbursable under the Criminal Justice Act, but rather are governed by Rule 17, Federal Rules of Criminal Procedure and 28 United States Code § 1825. Such expenses are paid by the Department of Justice through the U.S. Marshal's Office. (See Exhibit I, Public Defender's Handbook, USS Pub. No. 74, September 1977.) Appointed counsel should contact the CJA Administrator (Martha Higdon at 522-2075) for assistance.
- PACER costs are not reimbursable. Appointed attorneys can apply for a no-fee account and should contact the PACER Service Center in San Antonio at 1-800-676-6856 for more information.
- Time and expenses involved in the preparation of an appeal (whether from interlocutory orders or final judgments) or work related to the review of proceedings before this court. These are considered as applicable to the case before the United States Court of Appeals, and should be included on the voucher for services performed in that court.
- Work related to state court proceedings will not be compensated unless the attorney obtains prior authorization from the court. See section entitled "State Court/Other Ancillary Matters," p.10.)

Top of Page

CAPITAL PROSECUTIONS AND CAPITAL HABEAS CASES: CASE BUDGETING

Counsel appointed to represent an individual in a capital prosecution or a capital habeas case are expected to comply with the provisions outlined in this manual, where applicable. In addition, the following information is specifically pertains to representation in capital cases.

Top of Page

CAPITAL HABEAS CASES

It is the intent of this Court to work with counsel in an effort to manage the costs of capital habeas litigation. In furtherance of this objective, counsel are expected to prepare a budget for tasks to be performed by attorneys and paralegals and expenses to be incurred for investigators, expert witnesses and other costs. The Judge assigned to the case will oversee the budgeting procedure in conjunction with the CJA Supervising Attorney. The electronic budgeting and voucher process will be initiated in all open cases pending in the Northern District.

Top of Page

Phased Budgeting

Phased budgeting has been implemented to ensure continuing court supervision and to control costs. The phases include: 1) Appointment, Record Review, Assembling the Record, and Preliminary Investigation; 2) Preparation of the Petition and Exhaustion Issues, 3) Motion for Evidentiary Hearing and Briefing of Claims Not Subject to Evidentiary Hearing; 4) Evidentiary Hearing and Final Briefing. Each phase will require separate approval. Budget forms and vouchers are emailed to counsel by the supervisor of the CJA Unit. When counsel is appointed to a capital habeas case, the court will issue a case

management order outlining procedures to be followed in capital habeas cases and setting a date for the submission of the budget for the first phase. In cases in which counsel has already been appointed, the budgeting process will be initiated after exhaustion in the state court.

Top of Page

Budget Submissions

For each phase, counsel should submit by email to the CJA Supervising Attorney the following: Confidential Case Evaluation form (updated as necessary), the proposed budget, and a detailed declaration outlining specifics as needed to support the budget requests, including any relevant case law which supports a particular request. The declaration must support a finding that any requested experts or other services “are reasonably necessary for the representation of the defendant,” 21 U.S.C. § 848(q)(9), including, but not limited to a specification of: 1) the factual issues requiring expert or other assistance; 2) facts suggesting that such investigation, expert, or other assistance is warranted; 3) whether the evidence existed at the time of the state trial; 4) the purpose for the evidence on federal habeas; and 5) an estimated budget for each task, specifying the proposed billing rate within the maximum rates established by the Court and the total amount of the funds requested. Once submitted, the CJA Supervising Attorney will contact counsel to discuss the proposed budget. The court will issue an order approving a budget or schedule an ex parte conference to resolve any questions or unresolved issues.

The court will give due regard to the provisions of 28 U.S.C. § 848(a)(9). Thus, counsel should briefly outline reasons for the confidentiality of the budget in the supporting declaration. All documents relating to the budget will be filed in the CJA confidential file.

Top of Page

Support Staff/Experts

Appointed counsel are expected to utilize paralegals and other cost-effective means to minimize costs where attorney expertise is not required. Appointed counsel are not permitted to earn a profit from use of support staff. The hourly rates for staff or an independent must be consistent with the maximum rates established by this Court and outlined in the preceding sections of this manual, unless otherwise authorized by the Court. Use of associates, paralegals, law clerks, summer associates, and law students must be pre-approved in conjunction with case budgeting or a funding request; such requests must detail the projected number of hours and the hourly rate and total anticipated expenditure. To avoid duplication of efforts and excessive staff conferencing, the court expects that counsel will develop a reasonable division of labor between counsel, and between counsel and other staff.

Approval of any budget item will serve as approval of attorney’s fees and expenditures for experts, investigators, paralegals, etc., unless the Court specifically notes otherwise. In certain circumstances to be specified by the Court, the Court may require a subsequent written request to outline specifics not previously provided in the budget. While a budget request is pending, counsel may proceed with necessary tasks until notification by the Court order as to resolution of the budget. Absent good cause or excluded conditions, fees and expenditures in the case shall not exceed the budget for each phase.

To the extent that any task is not ultimately required, the authorized hours will be adjusted accordingly. Within a particular phase, attorney hours may be transferred from one task to another; similarly paralegal hours may also be transferred from one task to another. As to experts and other services, unused funds from one service provider cannot be allocated to another service provider.

In the event that counsel believes a modification to the budget is required, counsel must not exceed the budgeted amounts approved without first seeking an amendment of the budget, explaining in detail why additional funds are required and receiving the court’s permission to incur any such costs. In planning for the litigation of this case, counsel must file any proposed amendments to the budget far enough in advance to give the court adequate time to consider the request and issue a ruling thereon without impeding the progress of the litigation.

Perez v. Cate, No. 09-17185, archived on January 25, 2011

All budget Orders for all phases are subject to approval by the Ninth Circuit Judicial Council.

[Top of Page](#)

Division of Labor

The appointment of two attorneys is not presumed. In cases where two attorneys are appointed, only one counsel will be compensated for attendance at court hearings unless permission is granted by the Court. Compensation will not be approved for attendance at Court hearings by additional support staff, including law clerks, paralegals and investigators without permission from the Court.

Unless permission is granted by the Court, no more than two staff persons (two attorneys or one attorney and one paralegal or investigator) will be compensated for time expended in interviews and meetings with experts and witnesses.

In cases where one attorney has been appointed from within the Northern District of California and one attorney is from out of the district, local counsel should attempt to conduct most of the client visits whenever possible. The Court urges counsel to develop a division of labor between counsel to minimize billing of time and travel expenses for client visits by out-of-district counsel.

When two counsel are appointed as co-counsel and are both compensated at an equal hourly rate, it is expected that a division of labor will be developed to ensure that each counsel will perform tasks in a relatively independent manner, minimizing duplication. When lead counsel is appointed at a higher hourly rate than second counsel, it is understood that more coordination and oversight by lead counsel will be required.

The court expects that counsel will develop a reasonable division of labor between counsel, and between counsel and other staff, to avoid duplication of effort and excessive staff conferencing. Counsel should minimize time claimed for such items as internal conferences and memos, coordination between co-counsel, and coordination between counsel and staff, such as investigators and paralegals. Compensation will not be approved for unreasonable claims in these areas.

Guidelines issued by the Court of Appeals for the Ninth Circuit permit payment for review of the record (e.g., written documents, pleadings, transcripts, etc.) at a rate of 60 pages per hour.

[Top of Page](#)

CAPITAL PROSECUTIONS

Case budgeting is required in all capital prosecutions. As soon as counsel is informed that the death penalty will be sought in connection with the prosecution of a criminal case, appointed counsel should contact the CJA Supervising Attorney (415-522-2822) to discuss budgeting procedures in such cases.

[Top of Page](#)