



UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

**Post Office Box 193939
San Francisco, CA 94119-3939**

Date: October 7, 2016
To: Criminal Justice Act Panel Attorneys
From: Molly C. Dwyer, Clerk of Court
Re: Associate, Additional, and Co-Counsel Attorney Billing

This memorandum presents some minor modifications to clarify our February 10, 2015 and September 17, 2015 memoranda regarding Associate and Additional Attorney Billing.

In an effort to maintain accurate records of expenditures under the Act, the circuit's Criminal Justice Act Oversight Committee has determined that any associate attorneys used in a case who are employed by counsel of record's firm are required to keep their own contemporaneous time records within the eVoucher program. In other words, counsel of record should not include associate's time entries on counsel's eVoucher CJA 20 or 30 submissions. **All attorneys, including associates, should keep separate contemporaneous time records within the COA's eVoucher program.**

When counsel anticipates using the services of another attorney in your firm in a given case, counsel must ask the court to create a separate payment record. The request must confirm that the associate is an employee in counsel of record's firm, the associate's billing rate, and the nunc pro tunc date, and state whether the associate provided services in the district court. Requests to create an associate record can be submitted via email to Susan_Gelmis@ca9.uscourts.gov.

Any eVoucher submission by counsel of record that includes associate hours will be rejected; counsel will be required to remove the associate hours and transfer them into a separate eVoucher under the associate's name.

If you wish to use the services of an associate attorney **within** your firm (in all cases), or an additional attorney or co-counsel **outside** of your firm (in non-capital cases), you must use the attached form requesting advance authorization to obtain that relief.

**REQUEST FOR ADVANCE AUTHORIZATION OF ADDITIONAL COUNSEL OR CO-COUNSEL (NON-CAPITAL
CASES ONLY), OR ASSOCIATE COUNSEL (ALL CASES)**

ASSOCIATE/ADDITIONAL COUNSEL

Counsel at my firm

I request authorization to use the services of (name) , a partner or an attorney employed at my firm, at the rate of /hour, as an associate or additional counsel. I estimate that the attorney will bill hours of service. Payment for this attorney's services should be made to:

- The firm. The firm's employer identification number is _____
- The individual. The individual's Social Security number is _____

Outside counsel

I request authorization to use the services of (name) , at the rate of /hour, as an associate or additional counsel. I estimate that the attorney will bill hours of service. Payment for this attorney's services should be made to:

- The attorney's firm or employer. The firm/employer's employer identification number is _____
- The individual. The individual's Social Security number is _____

I understand that the presumptive statutory maximum applies to the combined compensation of counsel of record and the associate/additional counsel.

CO-COUNSEL

I request appointment of (name) , as co-counsel. (name) is a partner or is currently employed at:

- My firm
- Another firm/sole practitioner

I have attached an explanation why the exceptional complexity of the case and the interests of justice warrant appointment of co-counsel and have included an estimate of the anticipated hours of service that co-counsel will provide.

Payment for co-counsel's services should be made to

- Co-counsel's firm or employer. The firm/employer's employer identification number is _____
- The individual. Co-counsel's Social Security number is _____.

_____ /s/ _____
Type name: _____

Counsel appointed under the Criminal Justice Act

Note:

The tax identification number is not required if the firm or individual is already registered as a service provider in the CJA evoucher system.

Completion of this form to request co-counsel or additional counsel is not necessary in death penalty cases, as criminal defendants and petitioners are presumptively eligible for the services of two attorneys. Completion of this form to request associate counsel is necessary in all cases.

The question whether the estimated hours in this request will be awarded in full will be determined when the voucher is reviewed.

Requests for advance authorization of paralegal, law clerk or other expert services exceeding \$800 are made via the Advance Authorization for Expert Services form.