

## CJA PAYMENT MEMORANDUM

### 1. BUDGETING EXTRAORDINARY CASES

#### a. Extraordinary Cases

- i. Case budgeting is encouraged for cases that appear likely to become or have become extraordinary in terms of potential cost—such as when attorney time is expected to exceed 300 hours from the start of the appeal through filing of the certiorari petition in a non-capital case.
- ii. Budgeting assists both counsel and the court in determining, in advance, the compensation that will be available to counsel. For questions about budgeting, contact the CJA Budgeting Attorney at 804-916-2177.

#### b. Filing Proposed Budget

- i. If counsel anticipates, from the outset, that the representation will exceed 300 hours, counsel should file a proposed budget within 21 days after appointment. If the need for additional hours becomes apparent later in the case, counsel should promptly submit a request for approval of a specific number of hours and explain why the need was not apparent earlier.
  - ii. The proposed budget should detail the estimated number of hours required for in-court time and for each category of out-of-court service: (a) interviews and conferences; (b) obtaining and reviewing records; (c) legal research and brief writing; (d) travel time; and (e) investigative and other work. Counsel should provide a detailed explanation of why the estimated hours are reasonably necessary for representation in the case.
  - iii. Proposed CJA budgets are filed using the SEALED DOCUMENT event in CM/ECF, and identifying the document as being filed ex parte.
- c. The chief judge or his designee will direct entry of a sealed, ex parte order informing the attorney of the number of hours approved for the case. When the CJA 20 voucher is submitted at the close of the case, counsel must upload the budgeting order to CJA eVoucher for submission as a supporting document.

### 2. ATTORNEY COMPENSATION CLAIMED ON CJA 20 VOUCHER

#### a. Case Compensation Maximums

- i. A \$7,800 limit, exclusive of expenses, applies to attorney compensation in the following types of cases (\$7,300 if all work was completed on or after May 5, 2017, and before March 23, 2018):
  - o Felony appeal (TD representation code)
  - o Misdemeanor appeal (TD representation code)
  - o 28 U.S.C. § 2241, 2254, or 2255 appeal (HA representation code)

- 18 U.S.C. § 983 civil asset forfeiture appeal (AF representation code)
- ii. A \$2,300 limit, exclusive of expenses, applies to attorney compensation in these "other" case types:
  - Interlocutory appeal (CA representation code)
  - Bail appeal (CA representation code)
  - Civil commitment appeal (CA representation code)
  - Probation or supervised release revocation appeal (CA representation code)
  - Appeal from order dismissing indictment (CA representation code)
  - Appeal from post-judgment criminal motion (CA representation code)
  - Appeal from drugs-minus-two § 3582(c) motion (DRA representation code)
  - Extraordinary writ (CA representation code)
  - Motion for authorization to file successive petition (CA representation code)
- iii. These limitations apply per defendant in a consolidated matter. If another attorney is substituted during the appeal, the limitations apply to joint compensation.
- iv. Attorneys seeking compensation in excess of these limits must submit a separate, detailed memorandum demonstrating that the case is more complex or time consuming than the average case and that excess payment is necessary to provide fair compensation. A [CJA 27 Excess Compensation Form](#) may be used for this purpose. The excess compensation memorandum or form must be uploaded as a PDF document to CJA eVoucher for submission with the CJA 20 voucher.

**b. Hourly Rates**

- i. The maximum hourly rate for work performed on or after March 23, 2018, is \$140.
- ii. The maximum hourly rate for work performed betweenr May 5, 2017, and March 22, 2018, is \$132.
- iii. The maximum hourly rate for work performed between January 1, 2016, and May 4, 2017, is \$129.
- iv. The maximum hourly rate for work performed between January 1, 2015, and December 31, 2015, is \$127.
- v. Earlier rates are available in the [Guidelines for Administering the CJA and Related Statutes](#). The CJA eVoucher program automatically applies the applicable hourly rate to each date of service.

**c. Scope of Representation**

- i. Counsel may claim in this court all time spent representing the client on appeal, after filing of the notice of appeal through preparation of a petition for writ of certiorari.

- ii. Counsel's obligation on appeal extends through advising the client of the right to file a petition for writ of certiorari and filing such a petition if requested. If counsel believes that a petition for writ of certiorari would be frivolous, counsel may, in lieu of filing the petition, file a motion to withdraw in this court.
- iii. Counsel should not file their voucher until they have completed their representation through the certiorari stage and filed the [Certiorari Status Form](#).
- iv. The start and end dates for counsel's services must be entered in the Claim Status tab of CJA eVoucher before the voucher is submitted. The start date is the earliest date entered for any services or expenses, and the end date is the latest date entered for services or expenses.

#### **d. Description of Services**

- i. Attorney time must be recorded by date in hours and tenths of an hour for in-court service and for each category of out-of-court service: (a) interviews and conferences; (b) obtaining and reviewing records; (c) legal research and brief writing; (d) travel time; and (e) investigative and other work.
- ii. Individual narrative entries should provide a precise description of each service and its relevance to the proceeding, i.e., specific topics researched or transcript pages reviewed. Services must be described with enough specificity for the court to determine whether the time billed is reasonable and necessary to the representation. Entries such as "record review-6 hours," "research-4 hours," or "brief preparation-5 hours" do not provide sufficient detail for the court to determine the reasonableness of the time billed.

#### **e. Associate Time**

- i. Appointed counsel may use the assistance of associate counsel to reduce the costs of the representation or comply with time limits. Associate counsel is not a substitute for appointed counsel, and appointed counsel remains responsible for all representation provided in the case. If appointed counsel wishes to use the services of an associate attorney, appointed counsel should request creation of an associate payment record by contacting the CJA Help Desk (804-916-2703 or [4cca-cja@ca4.uscourts.gov](mailto:4cca-cja@ca4.uscourts.gov)). The CJA Help Desk will add associate counsel to the case at an hourly rate of \$90. Appointed counsel must, in addition, file a motion in CM/ECF to approve/authorize the use of associate counsel if either of the following apply:
  - o Appointed counsel anticipates that compensation for all services in the case may exceed the compensation cap and intends to request excess compensation or
  - o Associate counsel is not in the same law firm as appointed counsel.
- ii. Upon completion of the representation, appointed counsel and associate counsel should submit their vouchers at the same time and include a reference to each other's vouchers in Public/Attorney Notes under the Confirmation Tab of the vouchers. Any order approving the use of associate counsel should be uploaded to the vouchers. This will

facilitate the court's association and review of the combined vouchers under the compensation cap.

- iii. Associate time spent learning the case or the law should not be billed if it duplicates or exceeds the time required for appointed counsel to perform the same work.

**f. Secretarial and Clerical Services**

- i. Secretarial and clerical services are considered non-reimbursable office overhead.
- ii. Clerical functions include saving and printing documents from CM/ECF. Time spent reading the documents should be aggregated each day to avoid over-billing for document review.

**3. ATTORNEY EXPENSES CLAIMED ON CJA 20 VOUCHER**

**a. Travel Expenses**

- i. The only travel expenses subject to reimbursement are those incurred by appointed counsel. The court will not pay travel expenses for non-appointed co-counsel or student counsel absent a prior order specifically authorizing the travel.
- ii. Reimbursement for travel in excess of 200 miles roundtrip, other than for oral argument, will be made only if counsel obtained leave of court before incurring the expense. Counsel should file a motion in CM/ECF to approve the travel, addressing the specific need for the travel and the estimated time and expenses. The court's order authorizing the travel must be uploaded as a PDF document to CJA eVoucher for submission with the CJA 20 voucher.
- iii. Counsel traveling by plane or train should request a Travel Authorization by calling the clerk's office at 804-916-2700. The Travel Authorization entitles counsel to make plane and train reservations through National Travel Service (NTS) at government travel rates. If reservations are made through NTS, the clerk's office will make payment directly to the carrier after verifying that counsel used the reservation.
- iv. If plane or train reservations are not made through NTS, counsel should claim reimbursement for the plane or train ticket on the CJA 20 voucher. If the ticket was more expensive than the government rate that could have been obtained through NTS, reimbursement will be limited to the government rate. Reimbursement is limited to coach class rates. A copy of the invoice or ticket must be uploaded to CJA eVoucher as a PDF document.
- v. Automobile mileage expenses may be claimed by entering the date, destination, and number of miles traveled in CJA eVoucher. Mileage for travel by privately-owned automobile is reimbursed at the rate in effect for federal employees at the time of travel, plus parking fees and tolls. The CJA eVoucher program automatically applies the correct mileage rate based upon the date of travel. Current mileage reimbursement rates may be found at <https://www.gsa.gov/travel/plan-book/transportation-airfare-rates-pov->

[rates-etc/privately-owned-vehicle-pov-mileage-reimbursement-rates](#), and archived mileage rates may be found at <https://www.gsa.gov/travel/plan-book/transportation-airfare-rates-pov-rates-etc/privately-owned-vehicle-pov-rates/pov-mileage-rates-archived>.

- vi. Expenses for lodging plus meals and incidental expenses will be reimbursed in accordance with prevailing limitations imposed on federal judiciary employees by government travel regulations. Per diem is not allowable, since the CJA provides for reimbursement of expenses actually incurred. Court-appointed counsel are eligible for government hotel rates and should request the lowest available rate when making their hotel reservations.
- vii. See <http://www.uscourts.gov/rules-policies/judiciary-policies/judiciary-staff-travel-regulations> for judiciary travel regulations. For government rates for lodging and meals, see <https://www.gsa.gov/travel/plan-book/per-diem-rates>.
- viii. All travel expenses (lodging, meals, parking, ground transportation) must be supported by receipts. Upload all receipts using the Documents tab in CJA eVoucher. Receipts for meals and lodging must be sufficiently detailed to establish that reimbursement is not being sought for alcoholic beverages, safe deposit boxes, in-room movies or other expenses which are not reimbursable under the CJA. For this reason, the hotel or restaurant bill, rather than a credit card receipt must be submitted.
- ix. Counsel traveling to a location for more than one representation must maintain their records in a manner that prevents submission of duplicate travel reimbursement claims.

#### **b. Computer Assisted Legal Research Expenses**

- i. The cost of use of computer assisted legal research equipment may be allowed as a reimbursable expense, provided that the amount claimed is reasonable.
- ii. Claims for reimbursement for computer assisted legal research must be supported with a copy of the bill and receipt for the use of the legal research services or an explanation of the precise basis of the charge. Upload the bill using the Documents tab in CJA eVoucher.
- iii. If the amount claimed is in excess of \$500 or if it includes costs for downloading or printing, counsel should include a brief justification.

#### **c. Copy Expenses**

- i. CJA counsel are not required to pay PACER fees or court copy fees in CJA cases, and such fees are therefore not reimbursable under the CJA. Counsel should register for a fee exempt PACER account at [www.pacer.gov](http://www.pacer.gov), and use that account when accessing electronic documents in CJA cases. The district court's PACER docket and electronic documents are accessible through a link to the district court docket from the appellate docket. The "Create appendix" option for running a PACER docket report enables counsel to select which documents to include in the appendix.

- ii. Counsel may obtain reimbursement for necessary and actual copy expenses at a rate not to exceed \$.15 per page by itemizing the dates, number of copies, and cost per page. Reimbursement for copies of CDs or DVDs filed as a separate exhibit volume may be claimed at a rate not to exceed \$1 per item, plus \$.15 per page for copies of the cover and table of contents of the exhibit volume. A copy of the bill must be uploaded to the Documents tab in CJA eVoucher if a commercial copy charge exceeds \$50.
- iii. Copy costs for providing the defendant with the briefs and appendix (or record in an Anders case) are reimbursable expenses of the representation. Counsel may also claim reimbursement for providing the defendant in a non-Anders case with portions of the record up to \$75. A motion to approve/authorize should be filed in CM/ECF for authorization of additional copy costs.

**d. Long Distance Telephone Calls and Facsimile Charges**

- i. Counsel may claim reimbursement for long distance phone calls and facsimile charges by itemizing the date and amount of the long distance charge. If the amount exceeds \$50, a copy of the bill is required and should be uploaded using the Documents tab in CJA eVoucher.
- ii. Any other charge associated with use of counsel's phone or fax equipment is considered non-reimbursable office overhead.

**e. Postage and Courier Charges**

- i. Delivery charges may be claimed by itemizing the date, description of expense, and cost. Any expense in excess of \$50 must be supported by a detailed receipt uploaded to the Documents tab in CJA eVoucher.
- ii. Since briefs, appendices, and petitions for certiorari are generally deemed filed upon first-class mailing or dispatch to a commercial courier for delivery within three days, counsel should minimize the use of special services such as same day or overnight delivery.

**4. EXPERT SERVICES CLAIMED ON CJA 21 VOUCHER**

**a. Computer Assisted Legal Research Services**

- i. Payment for computer research services performed by employees of a legal research firm is made on a CJA 21 voucher, upon a showing that the total amount charged for the services is reasonable.
- ii. If the cost of such services will exceed \$800 for the appeal, counsel must submit either a motion to approve/authorize in CM/ECF or an expert authorization request in CJA eVoucher, setting forth the estimated number of hours and rate.

## **b. Interpreter Services**

- i. Interpreter services may be necessary to communicate with a client regarding the substance of an Anders brief and the right to file a supplemental pro se brief in an Anders case or regarding other aspects of the representation.
- ii. Use of a certified interpreter is not required for services provided on appeal. Contact information for interpreters may be obtained from the district court or through the online database maintained by the [National Association of Judiciary Interpreters and Translators](#).
- iii. Federally certified interpreters are paid at a rate not in excess of \$59 per hour or part thereof. Interpreters without a federal certification are paid at a rate not in excess of \$35 per hour or part thereof. The court generally pays interpreters at hourly rates, rather than half-day or daily rates.
- iv. If the cost of such services will exceed \$800 for the appeal, counsel must submit either a motion to approve/authorize in CM/ECF or an expert authorization request in CJA eVoucher, setting forth the estimated cost of necessary interpreter services based on the number of hours and the hourly rate.

## **c. Translator Services**

- i. Translator services may be necessary to communicate with a client regarding the substance of an Anders brief or to translate a supplemental pro se brief into English in an Anders case.
- ii. Translators are paid at a rate not in excess of \$165 per 1,000 words. Contact information for translators may be obtained through the online database maintained by the [American Translators Association](#).
- iii. If the cost of such services will exceed \$800 for the appeal, counsel must submit either a motion to approve/authorize in CM/ECF or an expert authorization request in CJA eVoucher, setting forth the estimated cost of necessary translation services based on the number of words and the rate.

## **d. Paralegal and Law Clerk Services**

- i. Services provided by paralegals may be claimed at an hourly rate of \$35. Services provided by law clerks may be claimed at an hourly rate of \$25.
- ii. If the cost of such services will exceed \$800 for the appeal, counsel must submit either a motion to approve/authorize in CM/ECF or an expert authorization request in CJA eVoucher, setting forth the estimated number of paralegal or law clerk hours required and the hourly rate.

**e. Paralegal Services from Local Printers**

- i. Several local printers provide paralegal services for the compilation and formatting of briefs and appendices in accordance with the court’s local rules.
- ii. The \$35/hour rate for paralegal compensation applies to these services, and required copies can be claimed as an expense on the CJA 21 voucher.
- iii. If the cost of such services will exceed \$800 for the appeal, counsel must submit either a motion to approve/authorize in CM/ECF or an expert authorization request in CJA eVoucher, setting forth the estimated cost of the services.

**5. TRANSCRIPTION SERVICES CLAIMED ON CJA 24 VOUCHER**

**a. Transcript Orders**

- i. CJA authorization for all transcript needed for appeal is requested by submitting an AUTH-24 in the district eVoucher system in accordance with the district’s eVoucher procedures. New appellate counsel must contact district eVoucher staff for appointment to the underlying district court case in order to submit the AUTH-24 request for district judge approval.
- ii. All CJA counsel must also submit a [Transcript Order Form](#) to the court reporter and district court and file the same in the court of appeals with counsel’s Docketing Statement. Upon filing of the Transcript Order Form, the court of appeals will set deadlines for filing of all transcript.
- iii. If a transcript has already been ordered by a co-defendant, counsel may request a copy from co-defendant’s counsel or the court reporter (\$.15 per page copy rate applies) or may ask the district court to provide appointed counsel with access to the transcript on the district court docket.
- iv. Counsel is responsible for requesting redaction of any private or sensitive data before a transcript is made publicly available on the district court’s electronic docket, in accordance with the [Judicial Conference Policy on Privacy and Public Access to Electronic Case Files](#).
- v. For assistance in obtaining access to transcripts, see [Record Access for New Appellate Counsel](#) or contact the Fourth Circuit appointments deputy, Lisa McFarland.

**b. Transcript Payments**

Once the transcript has been provided to counsel, counsel creates and submits a CJA 24 voucher in district eVoucher for payment of the court reporter in accordance with the district’s eVoucher procedures.



## **6. CLAIM PROCEDURE**

### **a. CJA 20 Vouchers**

- i. Counsel must submit the completed CJA 20 voucher within 60 days of final disposition of the case, unless good cause is shown. Depending on the course of the case, this may be 60 days from entry of judgment, dismissal of the appeal, or denial of rehearing, whichever is later. If counsel files a petition for writ of certiorari, the 60-day period runs from the filing of the certiorari petition.
- ii. In cases requiring substitution of CJA counsel, the statutory maximum applies to the combined compensation paid to both attorneys. Therefore, both attorneys submit their vouchers after final disposition of the appeal.
- iii. In cases in which extraordinary expenses and case delay create undue financial hardship, counsel may file a motion in CM/ECF to approve/authorize an interim voucher, setting forth in detail the justification for an interim voucher. The Court grants such requests in non-capital cases only in rare instances.
- iv. Vouchers must be carefully reviewed prior to submission to ensure they do not contain errors, duplicate claims, or other improper charges. Consult the [Checklist for CJA 20 and 30 Vouchers](#) for a list of items that must be submitted with the CJA 20 voucher.
- v. The combination of counsel's eVoucher user name and password serves as counsel's signature for documents and forms submitted to the CJA eVoucher system. Counsel is responsible for securing the password against unauthorized use and for notifying the clerk's office of suspected misuse.

### **b. CJA 21 Vouchers**

- i. Counsel creates and approves the CJA 21 voucher for expert payment and submits it to the court upon completion of the expert's services. Prior authorization through eVoucher or by separate order is required for services in excess of \$800.
- ii. Local printers are set up to enter their services and expenses and upload their invoice to CJA eVoucher. When creating a CJA 21 voucher for a local printer, counsel should change the voucher assignment to "Expert" to enable the printer to enter their services and expenses and upload their invoice. Counsel then approves the CJA 21 voucher in CJA eVoucher for submission to the court.
- iii. For other types of experts, counsel must enter the expert's services and expenses and upload the invoice. After completing the entry step for the expert's services and expenses, counsel returns to the home screen, reopens the CJA 21 voucher, and approves it, which submits the voucher to the court for payment.

## **7. PUBLIC DISCLOSURE OF FEES**

- a. After completion of the appeal, the voucher (though not the supporting documentation) will

be made available in response to a public request unless counsel requested, at or before the time the voucher was filed, that public disclosure be limited to the amounts approved for payment in order to (1) protect any person's Fifth Amendment right against self-incrimination, (2) protect the defendant's Sixth Amendment right to effective assistance of counsel; (3) protect the defendant's attorney-client privilege; (4) protect counsel's work product privilege; (5) protect the safety of any person; or (6) protect any other interest that justice may require.

- b. For further information, see [CJA 19 Notice to Court-Appointed Counsel of Public Disclosure of Attorney Fee Information](#).

## 8. QUESTIONS

- a. For budgeting questions, contact CJA Budgeting Attorney Larry Dash at 804-916-2177.
- b. For payment questions, contact CJA Administrator Patty Layne at the CJA Help Desk, 804-916-2703, or via email at [4cca-cja@ca4.uscourts.gov](mailto:4cca-cja@ca4.uscourts.gov).

## 9. WORKSHEETS

- a. Counsel may enter their time and services in CJA eVoucher on an ongoing basis or track their time and services outside CJA eVoucher for entry at the close of the case.
- b. The court's CJA 20 Worksheets may be used to record services and expenses for later entry of data into CJA eVoucher. [CJA 20 Worksheets](#) (PDF) [CJA 20 Worksheets](#) (Excel)