

**UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT**

**NOTICE OF ADOPTION  
OF PLAN FOR THE COMPOSITION AND ADMINISTRATION  
OF THE CJA APPELLATE AND CAPITAL APPELLATE PANELS**

PLEASE TAKE NOTICE that the Court has adopted the attached Plan for the Composition and Administration of the CJA Appellate and Capital Appellate Panels (the Panel Composition Plan) to implement the 2007 amendments to the Court's Criminal Justice Act Plan. Under the Criminal Justice Act Plan, trial counsel's representation continues on appeal unless counsel is relieved by the Court of Appeals. Pursuant to the 2007 Plan amendments, the Court gives due consideration to trial counsel's motion to be relieved, recognizing that while there are benefits to maintaining continuity of counsel, the skills necessary to proceed as appellate counsel may differ from those required of trial counsel. The new Panel Composition Plan establishes a panel of skilled appellate attorneys (the CJA Appellate Panel) to accept new appellate appointments in cases in which trial counsel has been relieved from further representation. The Court retains, however, its practice of appointing trial counsel in the first instance to continue representation on appeal, without regard to whether trial counsel is also a member of the Court's CJA Appellate Panel.

Under the Panel Composition Plan, a CJA Appellate Panel Committee, composed of a Circuit Judge, a Federal or Community Defender, at least one attorney from each District within the Circuit, the Circuit Executive, the Clerk, and the Senior Staff Attorney, will review applications for membership on the CJA Appellate and Capital Appellate Panels on an annual basis and recommend, for approval by the Court, those applicants best qualified to fill the Panels. Initial CJA Appellate Panel members will be randomly designated for one, two, or three year appointments to the Panel; thereafter, attorneys will serve three year appointment terms unless removed by the Court for unsatisfactory performance. Members may apply for renewed membership at the conclusion of their terms.

The Fourth Circuit's Plan for the Composition and Administration of the CJA Appellate and Capital Appellate Panels takes effect June 1, 2008, subject to amendment in light of comments received. Interested parties may submit comments on or before July 1, 2008, to Patricia S. Connor, Clerk of Court, U.S. Court of Appeals for the Fourth Circuit, 1100 East Main Street, Suite 501, Richmond, Virginia 23219. Applications for membership on the CJA Appellate and/or the Capital Appellate Panel should be submitted on or before August 1, 2008, to the same address, using the attached Application Form.

May 28, 2008

/s/ Patricia S. Connor

PLAN FOR THE COMPOSITION AND ADMINISTRATION OF THE  
CJA APPELLATE AND CAPITAL APPELLATE PANELS

I. COMPOSITION OF PANELS

A. PANEL TYPES

The Court shall establish two panels of attorneys who are eligible and willing to accept appellate appointments of the types identified below. The Court shall approve attorneys for membership on the panels after receiving recommendations from the CJA Appellate Panel Committee established pursuant to section II of this Plan. An attorney may be a member of more than one panel.

1. CJA Appellate Panel. Members of the CJA Appellate Panel are appointed in criminal cases when new counsel must be appointed on appeal. To qualify for the CJA Appellate Panel, attorneys must be members in good standing of the Fourth Circuit bar and have demonstrated experience in, and knowledge of, federal criminal law and appellate procedure and the Sentencing Guidelines.

2. Capital Appellate Panel. Members of the Capital Appellate Panel are appointed in capital cases when new counsel must be appointed on direct appeal or on collateral appeal under 28 U.S.C. § 2254 or § 2255. The Capital Appellate Panel is composed of first-chair and second-chair counsel lists. First-chair counsel must have been a Fourth Circuit bar member for at least five years and have at least three years experience in the handling of felony appeals in the Fourth Circuit. See 18 U.S.C. § 3599. Qualification requirements for second-chair counsel are the same as for CJA Appellate Panel members.

B. PANEL SIZE.

The CJA and Capital Appellate Panels shall be large enough to provide a sufficient number of experienced attorneys to handle the caseload, yet small enough so that panel members will receive an adequate number of appointments to maintain their proficiency and thereby provide a high quality of representation.

C. TERMS OF PANEL MEMBERSHIP.

The initial CJA Appellate Panel established pursuant to this Plan will be divided into three groups, equal in number. Members will be assigned to one of the three groups on a random basis. Members of the first group will serve on the panel for a term of one year, members of the second group will serve on the panel for a term of two years, and members of the third group will serve on the panel for a term of three years. Thereafter, attorneys admitted to the panel will each serve for a term of three years. Members of the Capital Appellate Panel will remain on the panel unless removed at their request or at the direction of the Court.

A panel member may be removed from any panel whenever the Court, in its discretion, determines that the member has failed to fulfill satisfactorily the obligations of panel membership, including the duty to afford competent counsel, or has engaged in other conduct that renders inappropriate his or her continued service on the panel.

D. PANEL REAPPOINTMENTS.

Upon expiration of the term of a CJA Appellate Panel member, the panel member must apply for renewal of membership if he or she wishes to continue as a member of the panel.

E. PANEL APPLICATIONS.

The Court will set and publicize an annual application period for panel appointments. Application forms for membership and renewal of membership shall be available on the Court's web site and from the Clerk. Completed applications shall be submitted to the Clerk, who will transmit the applications to the CJA Appellate Panel Committee.

II. CJA APPELLATE PANEL COMMITTEE

A. MEMBERSHIP.

A CJA Appellate Panel Committee shall be established by the Court. The Committee shall consist of the following members appointed by the Chief Circuit Judge: a Circuit Judge, a Federal Public or Community Defender from within the Circuit, at least one attorney from each District within the Circuit, the Circuit Executive, the Clerk, and the Senior Staff Attorney. The Committee shall be chaired by the Circuit Judge. Attorneys appointed to the Committee shall serve staggered three year terms and may serve two consecutive terms. The Federal Defender representative shall serve a three-year term and may serve two consecutive terms.

B. DUTIES.

The CJA Appellate Panel Committee shall meet at least once a year in person or by teleconference to consider applications for the CJA and Capital Appellate Panels. The Committee shall review the qualifications of applicants for the panels and recommend, for approval by the Court, those applicants best qualified to fill the panels.

At its annual meeting the Committee shall also review the operation and administration of the panels over the preceding year and the legal education and training opportunities provided to panel members and make any recommendations for improvement to the Court.

### III. SELECTION FOR APPOINTMENT

#### A. CJA APPELLATE PANEL

1. Maintenance of List and Distribution of Appointments. The Clerk shall maintain a current list of all attorneys included on the CJA Appellate Panel, with law firm names, current office addresses, and telephone numbers. The Clerk shall also maintain a record of all new appointments made on appeal and statistical data reflecting the proration of new appointments between private attorneys and the Federal Public or Community Defender Offices.

2. Method of Selection. Appointments shall be initially offered to the Federal Public or Community Defender for the district out of which the appeal arises. If the Defender for that district has a conflict of interest, appointments may be made to the Federal Public or Community Defender for another district within the Circuit or to a member of the CJA Appellate Panel. CJA Appellate Panel appointments should be made on a rotational basis to the next panel member from the district in which the appeal arises who is qualified and available for appointment. Exceptions to these guidelines may be made due to the nature and complexity of the case, an attorney's experience or expertise, the defendant's place of confinement or residence if on bail, or the relative unavailability of counsel within the district from which the appeal arises. When such an exception is appropriate, the attorney selected for appointment need not be a member of the CJA Appellate Panel. Any variance in the appointment of attorneys by rotation must be approved in advance by the Chief Judge or the Chief Judge's designee.

#### B. CAPITAL APPELLATE PANEL

1. Maintenance of List and Distribution of Appointments. The Clerk shall maintain a current list of all first-chair and second-chair attorneys included on the Capital Appellate Panel, with law firm names, current office addresses, and telephone numbers. The Clerk shall also maintain a record of all new appointments made on appeal in capital cases.

2. Method of Selection. Appointments shall be made after appropriate consultation with the Federal Public or Community Defender or the Administrative Office of the United States Courts, in accordance with 18 U.S.C. § 3005 and the Guidelines for Representation in Federal Death Penalty Cases and Federal Habeas Corpus Proceedings, Volume 7, Chapter VI, Guide to Judiciary Policies and Procedures. First-chair counsel must meet the qualification standards of 18 U.S.C. § 3599, as further articulated in the Plan of the United States Court of Appeals for the Fourth Circuit in Implementation of the Criminal Justice Act, ¶ IV, § 4 (Sept. 17, 2007), and in Fourth Circuit Judicial Council Order 113 (Oct. 3, 1996). Second-chair counsel should be appointed after consultation with first-chair counsel.

**APPLICATION FOR MEMBERSHIP ON THE  
CRIMINAL JUSTICE ACT AND/OR CAPITAL APPELLATE PANELS  
FOR THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT**

**INSTRUCTIONS**

To be considered for membership on the CJA Appellate Panel for the United States Court of Appeals for the Fourth Circuit, an attorney must be a member of the bar of the Fourth Circuit in good standing and have demonstrated experience in, and knowledge of, federal criminal law and appellate procedure and the Sentencing Guidelines.

To be considered for membership as second-chair counsel on the Fourth Circuit's Capital Appellate Panel, an attorney must satisfy the qualifications for CJA Appellate Panel membership and have an interest in capital representation. To be considered for membership as first-chair counsel on the Fourth Circuit's Capital Appellate Panel, an attorney must have an interest in capital representation and must have been admitted to practice in the Fourth Circuit not less than 5 years and have had not less than 3 years experience in the handling of appeals in the Fourth Circuit in felony cases.

Counsel applying for membership on the CJA Appellate Panel should complete questions 1 through 7. Counsel applying for membership on the Capital Appellate Panel should complete questions 1 through 8.

Please submit **3** copies of:

- the completed questionnaire
- your resume
- an appellate brief you have prepared and a copy of the court opinion, or other writing sample (see question 5.B)

to: Clerk, U.S. Court of Appeals for the Fourth Circuit  
1100 East Main Street, Suite 501  
Richmond, VA 23219

**APPLICATION FOR MEMBERSHIP ON** (check all that apply)

\_\_\_\_\_ CJA Appellate Panel

\_\_\_\_\_ Capital Appellate Panel

**Application packages must be received no later than [date].**

(Attach additional sheets if needed in answering the following questions)

1. **Name** \_\_\_\_\_  
Firm Name \_\_\_\_\_  
Office Address \_\_\_\_\_  
Email \_\_\_\_\_ Fax No. \_\_\_\_\_  
Office Phone No. \_\_\_\_\_

2. **Education** – Graduated from:  
School of Law \_\_\_\_\_ Year \_\_\_\_\_

3. **Bar Admissions** – List each court with date of admission:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. **Disciplinary Actions** – Have you ever been disciplined, or are you the subject of any pending disciplinary proceeding, by the bar of any jurisdiction or by any court? \_\_\_\_\_  
If so, please explain in detail on a separate sheet of paper.

5. **Experience**  
A. **Prior CJA Experience** – If you have at any time been a member of a CJA panel, or the member of a comparable state court panel, please list the court(s) and approximate dates of service:  
\_\_\_\_\_  
\_\_\_\_\_

B. **Previous Appellate Experience** – Approximately how many appellate briefs have you prepared? \_\_\_\_\_ Of these appeals, approximately how many were federal appeals? \_\_\_\_\_ Approximately how many were criminal (state or federal) appeals? \_\_\_\_\_ How many appeals have you argued? \_\_\_\_\_

Please list up to three criminal or habeas corpus appeals you have handled, preferably federal appeals. If you have not handled any criminal appeals, you may list civil appeals.

Please provide three copies of the brief you authored in one of these cases. If the brief is an Anders brief or is not a good example of your writing and advocacy skills, please substitute a brief that better represents your qualifications.

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C. **Trial Experience** – Please briefly describe any criminal trial experience, federal or state, relevant to evaluating your competence to serve on this panel:

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D. **Other** – Have you ever been employed as a prosecutor, public defender, or law clerk to a judge or justice? \_\_\_\_\_ If so, please describe the position, the name of your employer, and the approximate dates of employment.

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6. **References** – Please list the name, address, and telephone number of two references who can assess your skills relevant to this panel:

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7. **Special Qualifications** – Are you fluent in Spanish? \_\_\_\_\_ Please indicate whether you have any other special qualifications, such as expertise in a specialized area of law or relevant legal experience, which you believe is helpful in evaluating your competence to serve on this panel.

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8. **Capital Appellate Panel**

A. **Statement of Interest** – Please state whether you would like to be considered for:

\_\_\_\_\_ First-chair counsel in capital appeals

\_\_\_\_\_ Second-chair counsel in capital appeals

A. **Previous Felony Appeals in this Court** – First-chair counsel must have been admitted to practice in this Court for not less than 5 years and must have had not less than 3 years experience in the handling of appeals in this Court in felony cases. Please list all felony appeals you have handled in this Court:

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B. **Other Relevant Experience** – Please identify any background, knowledge, experience, education, training, or other special qualifications that would be helpful in evaluating your competence to provide capital representation:

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\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant's Signature