

**GUIDANCE TO ATTORNEYS IN DRAFTING THE MEMORANDUM REQUIRED FOR A COMPENSATION CLAIM IN EXCESS OF THE CASE COMPENSATION MAXIMUM: COURT OF APPEALS**

[Section 230.30\(b\)](#) of the Guidelines for Administering the CJA and Related Statutes, Volume 7A, *Guide to Judiciary Policy*, provides:

In any case in which the total compensation claimed is in excess of the statutory case compensation maximum, counsel will submit with the voucher a detailed memorandum supporting and justifying counsel's claim that: the representation given was in an extended or complex case (**See:** § [230.23.40\(b\)](#)), and that the excess payment is necessary to provide fair compensation (**See:** § [230.23.40\(c\)](#)).

Section 230.23.40(b) of the CJA Guidelines states that a case is **complex** if the "legal or factual issues. . . are unusual, thus requiring the expenditure of more time, skill and effort by the lawyer than would normally be required in an average case," and that a case is **extended** if "more time is reasonably required for total processing than the average case, including pre-trial and post-trial hearings". Section 230.23.40(c) lists the following criteria as useful in determining **fair compensation** in extended or complex cases: responsibilities involved measured by the magnitude and importance of the case; manner in which duties were performed; knowledge, skill, efficiency, professionalism, and judgment required of and used by counsel; nature of counsel's practice and injury thereto; any extraordinary pressure of time or other factors under which services were rendered; and any other circumstances relevant and material to a determination of a fair and reasonable fee.

To assist counsel in writing a "detailed memorandum supporting and justifying counsel's claim that the representation given was in an extended or complex case, and that the excess payment is necessary to provide fair compensation," the following topics are provided for counsel's consideration. Some of these issues may not apply to a particular case or may not be noteworthy for this memorandum. Counsel, of course, may address topics other than those listed below.

Whether appeal is from a guilty plea, trial disposition, habeas petition, or other matter.

Offense(s) and number of counts on which client convicted; length of sentence; and number of co-defendants (pre-judgment and convicted.)

Size of transcript; number of trial days, if applicable; and description and length of other materials reviewed.

Whether appointed counsel represented the client at the district court level, and, if applicable, whether counsel represented the defendant at the trial. Hours claimed for obtaining and reviewing records.

Length of appellant's brief and number of sentencing and other issues; length of appellee's brief and number of issues; length of appellant's reply brief and number of issues; hours claimed for legal research and writing principal brief; and hours claimed for legal research and writing reply brief.

Whether there was a disposition before briefing, submission on the briefs, or oral argument. If applicable, hours claimed preparing for oral argument on principal brief.

Whether a petition for rehearing or a suggestion for rehearing in banc was filed by either party; the number of pages, the number of issues raised, the length of the response in opposition; hours claimed for legal research and writing petition for rehearing/suggestion for rehearing in banc or response in opposition; and, if applicable, hours claimed preparing for oral argument.

Whether a petition for a writ of certiorari was filed by either party; number of pages and issues raised; number of pages of a brief in opposition; number of pages of a reply brief; and hours claimed for legal research and writing petition/reply brief or brief in opposition. Attach counsel's documents.

Whether any of the following factors apply and their impact on the number of hours claimed: complex legal issues, novel legal issues, complex fact pattern, and legal issues researched but not written.

Whether any of the issues were briefed at the district court. The additional work required if any of the issues were briefed at the district court.

Any expense (see Items 17 and 18 of the CJA 20 voucher) greater than \$500.

Any other noteworthy circumstances regarding the case and the representation provided to support this compensation request. Include, if applicable: responsibilities involved measured by the magnitude and importance of the case, including, if applicable, precedential value; manner in which duties were performed; knowledge, skill, efficiency, professionalism, and judgment required of and used by counsel; nature of counsel's practice and hardship or injury resulting from the representation; any extraordinary pressure of time or other factors under which services were rendered.

**SUPPLEMENTAL INFORMATION STATEMENT FOR A COMPENSATION CLAIM IN EXCESS OF THE  
STATUTORY CASE COMPENSATION MAXIMUM: COURT OF APPEALS**

THIS FORM PROVIDES INFORMATION TO SUPPORT COUNSEL'S CLAIM THAT THE REPRESENTATION GIVEN WAS IN AN EXTENDED OR COMPLEX CASE, AND THAT THE EXCESS PAYMENT IS NECESSARY TO PROVIDE FAIR COMPENSATION. [SECTION 230.23.40](#) OF THE GUIDELINES FOR ADMINISTERING THE CJA AND RELATED STATUTES, VOLUME 7A, *GUIDE TO JUDICIARY POLICY*, DEFINES THE TERMS "EXTENDED" AND "COMPLEX," AND SUGGESTS CRITERIA FOR DETERMINING "FAIR COMPENSATION." THIS FORM SERVES AS COUNSEL'S MEMORANDUM REQUIRED BY [SECTION 230.30\(b\)\(1\)](#) OF THOSE GUIDELINES, AND DOES NOT REPLACE ANY OTHER DOCUMENTATION REQUIRED TO SUPPORT THE PAYMENT REQUEST. IF EXTRA SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS OF PAPER.

ATTORNEY NAME: \_\_\_\_\_ REPRESENTING: APPELLANT \_\_\_\_\_ APPELLEE \_\_\_\_\_

CASE NAME: \_\_\_\_\_

DOCKET NUMBER: \_\_\_\_\_ VOUCHER NUMBER: \_\_\_\_\_

**1** APPEAL FROM: GUILTY PLEA \_\_\_\_\_ TRIAL DISPOSITION \_\_\_\_\_ HABEAS PETITION \_\_\_\_\_ OTHER \_\_\_\_\_

OFFENSE(S) AND NUMBER OF COUNTS ON WHICH CONVICTED: \_\_\_\_\_

LENGTH OF SENTENCE: \_\_\_\_\_

NUMBER OF CO-DEFENDANTS: PRE-JUDGMENT \_\_\_\_\_ CONVICTED \_\_\_\_\_

SIZE OF TRANSCRIPT: \_\_\_\_\_ PAGES IF NOTEWORTHY, DESCRIPTION/LENGTH OF OTHER MATERIALS REVIEWED: \_\_\_\_\_

NUMBER OF TRIAL DAYS \_\_\_\_\_

**2** DID YOU REPRESENT YOUR CLIENT AT THE DISTRICT COURT LEVEL? YES \_\_\_\_\_ NO \_\_\_\_\_. IF YES, AT TRIAL? YES \_\_\_\_\_ NO \_\_\_\_\_.

HOURS CLAIMED FOR OBTAINING AND REVIEWING RECORDS: \_\_\_\_\_

**3** LENGTH OF APPELLANT'S BRIEF: \_\_\_\_\_ PAGES. NUMBER OF SENTENCING ISSUES: \_\_\_\_\_ NUMBER OF OTHER ISSUES: \_\_\_\_\_

LENGTH OF APPELLEE'S BRIEF: \_\_\_\_\_ PAGES. NUMBER OF ISSUES: \_\_\_\_\_

LENGTH OF APPELLANT'S REPLY BRIEF: \_\_\_\_\_ PAGES. NUMBER OF ISSUES: \_\_\_\_\_

HOURS CLAIMED FOR LEGAL RESEARCH AND WRITING PRINCIPAL BRIEF: \_\_\_\_\_ IF APPLICABLE HOURS CLAIMED FOR LEGAL RESEARCH AND WRITING REPLY BRIEF: \_\_\_\_\_

CHECK ONE OF THE FOLLOWING: DISPOSITION BEFORE BRIEFING \_\_\_\_\_ SUBMISSION ON BRIEFS \_\_\_\_\_

ORAL ARGUMENT: \_\_\_\_\_ IF APPLICABLE, HOURS CLAIMED PREPARING FOR ORAL ARGUMENT \_\_\_\_\_

**4** PETITION FOR REHEARING/SUGGESTION FOR REHEARING IN BANC FILED BY: APPELLANT \_\_\_\_\_ APPELLEE \_\_\_\_\_

PAGES: \_\_\_\_\_ NUMBER OF ISSUES RAISED: \_\_\_\_\_ RESPONSE IN OPPOSITION: \_\_\_\_\_ PAGES

HOURS CLAIMED FOR LEGAL RESEARCH AND WRITING PETITION/SUGGESTION OR RESPONSE IN OPPOSITION: \_\_\_\_\_

**5** PETITION FOR WRIT OF CERTIORARI FILED BY: APPELLANT \_\_\_\_\_ APPELLEE \_\_\_\_\_ PAGES \_\_\_\_\_

NUMBER OF ISSUES: \_\_\_\_\_ BRIEF IN OPPOSITION: \_\_\_\_\_ PAGES REPLY BRIEF: \_\_\_\_\_ PAGES

HOURS CLAIMED FOR LEGAL RESEARCH AND WRITING PETITION/REPLY BRIEF OR BRIEF IN OPPOSITION (ATTACH COUNSEL'S DOCUMENTS): \_\_\_\_\_

**6** CHECK WHETHER ANY OF THE FOLLOWING APPLY: COMPLEX LEGAL ISSUE(S) \_\_\_\_\_  
NOVEL LEGAL ISSUE(S) \_\_\_\_\_ COMPLEX FACT PATTERN \_\_\_\_\_ LEGAL ISSUE(S) RESEARCHED BUT NOT WRITTEN \_\_\_\_\_  
IF NOTEWORTHY, EXPLAIN IMPACT ON THE NUMBER OF HOURS CLAIMED: \_\_\_\_\_

ITEM 6 (CONTINUED)

**7** INDICATE WHETHER ANY OF THE ISSUES WERE BRIEFED AT THE DISTRICT COURT: YES \_\_\_\_\_ NO \_\_\_\_\_ .  
IF YES, EXPLAIN ADDITIONAL WORK REQUIRED:

**8** EXPLAIN ANY EXPENSE (SEE ITEMS 17 AND 18 OF THE CJA 20 VOUCHER) GREATER THAN \$500:

**9** EXPLAIN ANY OTHER NOTEWORTHY CIRCUMSTANCES REGARDING THE CASE AND THE REPRESENTATION PROVIDED TO SUPPORT THIS COMPENSATION REQUEST:

INCLUDE, IF APPLICABLE: (A) RESPONSIBILITIES INVOLVED MEASURED BY THE MAGNITUDE AND IMPORTANCE OF THE CASE, INCLUDING PRECEDENTIAL VALUE; (B) MANNER IN WHICH DUTIES WERE PERFORMED AND KNOWLEDGE, SKILL, EFFICIENCY, PROFESSIONALISM, AND JUDGMENT REQUIRED OF AND USED BY COUNSEL; (C) NATURE OF COUNSEL'S PRACTICE AND HARDSHIP OR INJURY RESULTING FROM THE REPRESENTATION; AND (D) ANY EXTRAORDINARY PRESSURE OF TIME OR OTHER FACTORS UNDER WHICH SERVICES WERE RENDERED.

SIGNATURE OF APPOINTED ATTORNEY:

DATE: