

**TABLE OF CONTENTS**

**APPENDIX II**

**GUIDELINES FOR CLAIMS SUBMITTED FOR  
REIMBURSEMENT TO THE CRIMINAL JUSTICE ACT**

1. Actual and Reasonable Work and Expenses. . . . . 1

2. Tasks Not Compensable. . . . . 2

3. Record Keeping. . . . . 3

4. Description of Tasks. . . . . 3

5. Travel. . . . . 3

6. Expert and Non-Expert Services Over \$800. . . . . 4

7. Compensation and Filing of Vouchers. . . . . 5

8. Violation of Guidelines. . . . . 6

## APPENDIX II

# NORTHERN DISTRICT OF NEW YORK GUIDELINES FOR CLAIMS SUBMITTED FOR REIMBURSEMENT PURSUANT TO THE CRIMINAL JUSTICE ACT

Where persons accused of committing a Federal crime establish they are financially unable to retain private counsel, and where the offense or offenses qualify for Court appointed counsel, the Court may appoint counsel to be paid from public funds pursuant to the Criminal Justice Act (18 U.S.C. §3006A) (CJA) and the Criminal Justice Act Plan for the Northern District of New York. To facilitate this process, these Guidelines have been adopted by the Court.

Every attorney who is paid out of the public funds designated for the payment of legal services rendered under the CJA has the responsibility to exercise prudence and restraint when preparing a voucher for payment. Such attorneys have an obligation to limit expenses to the greatest extent possible while still providing full, effective and fair representation of the client. In addition to the Guidelines, it is the obligation of each CJA attorney to comply with the Judiciary's Guidelines for Administering the CJA and Related Statutes, applicable local rules, Court orders, and notices.

It is the responsibility of the Court to ensure that all services and expenses funded under the CJA are those necessary and reasonable for effective representation by counsel.

### **1. Actual and Reasonable Work and Expenses**

- a. Only actual and reasonable work performed and expenses may be claimed or compensated. In claiming compensation, billing judgment must be exercised as to the reasonableness of all compensation claimed. Where more time was expended than is claimed for compensation, counsel may so indicate on the voucher.
- b. Failure to exercise billing judgment, recurring violations of these Guidelines, and unreasonable claims may result in reduction or denial of claims and removal from the CJA panel.
- c. Time spent on overlapping services in multiple cases (e.g., research, court appearances, waiting time) must be allocated appropriately among the cases and may not exceed the actual time expended.
- d. Preparation of "boiler-plate" notices and motions not necessitating legal research, e.g., motion to seal, continue, or any other routine filings, typically involve modifying the date, case caption and/or case number. Only time newly expended in adapting previously-

used documents may be claimed.

- e. Time expended on extended discussion of fundamental principals of law well known to the court and to opposing counsel may not be claimed. For example, claims for research relating to basic and general sentencing principles, i.e., “research re: *Booker, Gall, Kimbrough, etc.*”, or “cut and paste” of legal and historical discussions about *Booker* and its progeny, are not considered reasonable or compensable. Where facts and research are essential to an argument for reduced sentences, the argument must be tailored to the specific case to be compensable.
- f. Claims for reviewing a Notice of Electronic Filing (NEF) and associated documents must include the document numbers. No time may be claimed for reviewing an attorney’s own NEFs or filings or of co-defendants unless relevant to the representation.
- g. Claims for conferences with family representatives must reference the subject of the communication. This information should be included in the supporting documentation submitted in support of the voucher, and is not to be filed in CM/ECF.
- h. Ten or more hours billed in a single day is unusual. Absent extraordinary circumstances, billable hours in a day should not exceed ten hours unless in hearings or in trial.
- i. Charges for a facsimile transmission are limited to \$.10 per page. Charges for in-house copy work is limited to \$0.20 per page or actual cost, whichever is less. The number of pages for copy work and faxes must be referenced on the expense worksheet.

**2. Tasks Not Compensable**

- a. Clerical work, even if performed by an attorney, may not be claimed. Clerical work includes work customarily performed by non-professional employees and work that can be performed by a non-attorney for counsel to be able to render directly professional services. Work performed by a non-attorney may be claimed and compensated in accordance with orders of the court authorizing such work.
- b. Time spent accessing and storing Notices of Electronic Filing ("NEFs") is clerical and not compensable.
- c. Retrieving or holding property of a defendant is generally not compensable.
- d. You cannot charge for representation in other Courts, i.e.: if you represent the defendant in a State or County Court that work cannot be charged back to the Federal Court.

### **3. Record Keeping**

- a. Attorneys must maintain contemporaneous time and attendance records daily for all work performed. Records are subject to audit and must be retained for three years after approval of a final voucher for appointment. *(Reference: Volume 7, Part A., Chapter 2, Section 230.76 of The Judiciary Guidelines for Administering the CJA and Related Statutes.)*
- b. The Court will conduct an annual review of attorneys who have claimed compensation of more than 1,000 hours in the preceding fiscal year. *(Reference: Volume 7, Part A., Chapter 2, Section 230.80 of The Judiciary Guidelines for Administering the CJA and Related Statutes.)* An attorney may be required to perform a self-audit or independent audit for the Court.
- c. Records must allow determination of all time worked on all CJA cases in a single day.
- d. Proof of payment is required for all itemized expenses in excess of \$50.00. This includes a receipt, copy of a canceled check, or credit card statement.  
*An invoice is not considered proof of payment.*

### **4. Descriptions of Tasks**

- a. Descriptions of services must be adequate to understand the service and to evaluate the reasonableness of the time claimed.
- b. Claims for legal research must state the issue researched.
- c. Discrete tasks must be described and the time quantified separately, except one task each day of less than 0.1 hour may be claimed at 0.1 hour if no other service is claimed for that day with which it can be quantified. Multiple tasks on one day of less than 0.1 hour each must be quantified together at no more than the total actual time expended on all, or quantified with another task on the same day. If the activities fall into multiple categories as identified on the Out of Court section of the CJA 20 form (i.e., Interviews; Record Review; Legal Research and Writing; Travel; and Investigative/Other Work), the 0.1-hour entry may be entered in any applicable category. The aggregate time claimed, during the total period of representation, for single tasks requiring less than six minutes will be evaluated for reasonableness and may be subject to a reduction.
- d. Claims for document review may not exceed the actual time spent and must state specifically the nature of material reviewed and the number of pages.

### **5. Travel**

- a. Only actual time spent traveling may be claimed. Counsel must provide a breakdown of each expense and when claiming mileage must include the starting location and destination.

- b. Travel time and mileage to and from the courthouse is computed from the attorney's office, not the attorney's home, *unless their home is the office.*
- c. Attorneys must obtain advance authorization from the Court for travel outside the district. Absent such authorization, the attorney must demonstrate the travel was necessary and prior authorization could not have been obtained. Ordinarily, compensable time for travel includes only those hours actually spent in or awaiting transit. Accordingly, if a trip necessarily and reasonably requires overnight lodging, compensable travel time to the destination from the attorney's office terminates upon arrival at the place of accommodation and includes travel time returning directly to the attorney's office. (*Reference: Volume 7, Part A., Chapter 2, Section 230.60(b) of The Judiciary Guidelines for Administering the CJA and Related Statutes.*)
- d. Reasonable within-district travel for investigative purposes, e.g., travel to a local jail to meet with the client on an issue that could be discussed over the phone, does not require prior authorization.
- e. Actual mileage driven must be recorded for all mileage claims.
- f. Receipts must accompany all claims for non-mileage related travel expenses, including parking, tolls, taxi, airfare, hotel, etc.
- g. Reimbursement for meals is allowable only when the traveler has received authorization for overnight travel.
- h. Reasonableness of travel costs will be determined in conjunction with these Guidelines, and prevailing limitations for travel and subsistence expenses governing federal judiciary employees.
- i. Reimbursement Restriction. CJA Panel Members who do not maintain an office within the Northern District of New York will only be reimbursed for their mileage and travel time accrued while traveling within the borders of the Northern District. Mileage and travel time incurred outside of the District either traveling from your office or returning to your office will not be allowed without the prior permission of the Court.
- j. While time spent in common on more than one case must be prorated among the vouchers for cases on which the time was spent, the entire amount of travel or other expenses applicable to more than one representation must be billed to one representation. The materials supporting the voucher on which the expenses are billed must cross-reference the other CJA representations. (*Reference: Volume 7, Part A., Chapter 2, Section 230.50(e) and (f) of The Judiciary Guidelines for Administering the CJA and Related Statutes.*)

**6. Expert and Non-Expert Services Over \$800**

- a. Any expenditure over \$800.00 must be authorized in advance by the Court. For expert

services, this maximum applies per representation, not per service type. (Reference: Volume 7, Part A, Chapter 2, Section 310.20 of *The Judiciary Guidelines for Administering the CJA and Related Statutes and NDNY General Order #1, Appendix Section II-D*)

- b. The Court will strictly apply the requirements set forth in 18 U.S.C. § 3006A(e). If the cost of services for a case is anticipated to surpass the \$800.00 limitation, application to exceed this amount must be made at the onset. Any request seeking *nunc pro tunc* authorization for goods or services rendered in the interest of justice must include justification to support a finding that timely procurement of such goods or services could not practicably await prior authorization.
- c. The cost of goods or non-expert services may be claimed as an Other Expense on Form CJA 20. Claims for expert services must be filed on Form CJA 21 and be in accordance with the presumptive hourly fee schedule set forth on the District's Internet website. Approval to exceed the presumptive hourly rate must be obtained in advance. If a particular type of service is not listed on the Court's fee schedule, the request and justification must be based on the market rate.
- d. Expert vouchers where travel was necessary must provide a breakdown of travel expenses, ie: parking, tolls, and mileage from the starting location, destination and the number of miles traveled.
- e. Necessity of Affidavit. Statements made by or on behalf of the party in support of requests for investigative, expert, and other services shall be made or supported by affidavit and filed with the Court *in-camera* for review and consideration. The request should contain a sealing Order directing that the request and supporting papers be sealed until after the case is concluded and any appeals that may be filed have been terminated and the case closed.
- f. Receipts must accompany all claims.
- g. For information on rates for interpreter services please visit our website at [ndny.uscourts.gov](http://ndny.uscourts.gov).

## 7. **Compensation and Filing of Vouchers.**

Claims for compensation shall be **typed** and submitted on the appropriate *CJA* form accompanied by the *CJA* voucher worksheets to the office of the Clerk of Court. That office shall review the claim form for mathematical and technical accuracy, and for conformity with the *Guidelines for the Administration of the Criminal Justice Act (See: Vol 7, Guide to Judiciary Policies and Procedures)* and, if correct, shall forward the claim form for the consideration of the appropriate judge or magistrate judge. The Court may also direct the Office of the Federal Public Defender to review claim forms for mathematical and technical accuracy, and for conformity with the *CJA* Guidelines. The court will exert its best effort to avoid delays in reviewing payment vouchers and in submitting them for further processing.

- a. Maximum Amounts for Counsel. For representation of a defendant before a

magistrate judge or judge of this court, or both, the compensation paid any attorney shall not exceed the maximum prescribed by 18 U.S.C. §3006A(d)(2).

- b. Waiver of Limits on Counsel Fees. Payment in excess of any maximum amount prescribed by 18 U.S.C. §3006A(d)(2) for counsel fees or for other services may be made for extended or complex representation whenever the judge or magistrate judge (if the representation was entirely before the magistrate judge) certifies that the amount sought is necessary to provide fair compensation and the payment is approved by the Chief Judge of the Second Circuit or such active Circuit Judge to whom the Chief Judge has delegated approval authority. Counsel claiming such excess payment shall submit a detailed memorandum justifying counsel's claim that the representation was in an extended or complex case and that the excess payment is necessary to provide fair compensation.
- c. Notwithstanding the procedure described above, a judge or magistrate judge may in the first instance, contact counsel to inquire regarding questions or concerns with a claim for compensation. In the event that the matter is resolved to the satisfaction of the judge or magistrate judge and Panel member, the claim for compensation need not go through the formal written submission requirements noted above. The Court may, in its discretion, refer the voucher for further review to the Panel Review Committee for a confidential recommendation to the presiding Judge.
- d. Filing Your CJA Voucher. CJA Vouchers should be submitted for payment no later than 45 days after the final disposition of the case, unless good cause is shown. The clerks of the concerned courts should ensure that attorneys comply with the prescribed limits.  
*(See Section 230.13 of Volume 7 of the Guide to Judiciary Policies and Procedures)*

## **8. Violation of Guidelines**

Violation of these Guidelines may result in suspension or removal from the CJA Panel and reimbursement of payments received. Counsel are reminded that they must comply fully with the requirements set forth in NDNY General Order # 1 - Plan for the Composition, Administration and Management of the Panel of Private Attorneys and the Office of the Federal Public Defender under the Criminal Justice Act as well as Volume 7, of The Judiciary Guidelines for Administering the CJA and Related Statutes.