

**U.S. DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

CJA HANDBOOK



Hon. Brenda K. Sannes, Chief Judge
John M. Domurad, Clerk of Court

January, 2023

TABLE OF CONTENTS

1.	<u>Guidelines for Reimbursement</u>	1
2.	<u>Violation of Guidelines</u>	1
3.	<u>Compensable</u>	2
4.	<u>Reimbursable</u>	2
5.	<u>Non-Compensable</u>	3
6.	<u>Non-Reimbursable</u>	3
7.	<u>Description of Claims</u>	3
8.	<u>Record Keeping / Retention & Audit / Voucher Submission</u>	4
9.	<u>Interpreters / Other Experts</u>	5
10.	<u>Travel</u>	6

Addendums:

1. Getting Started (in eVoucher)
2. Tips for Success / FAQs
3. How to Claim In-Court v. Out-of-Court Hours
4. Guide to Expert Authorizations (CJA21s)
5. CJA-24 Workflow for Attorneys
6. CJA-26 Form

Guidelines for Reimbursement

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. 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.

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).

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 CJA-26, attached to the CJA-20, detailing/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.

Except in cases involving mathematical corrections, no claim for compensation under the CJA Plan will be reduced without affording counsel notice and an opportunity to be heard. A judge or magistrate judge may in the first instance, contact counsel to raise and attempt to resolve questions or concerns with a claim for compensation. 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.

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.

<p>Compensable</p>	<ol style="list-style-type: none"> 1. Only actual and reasonable work performed and expenses may be claimed or compensated. 2. Travel time (overnight travel must be pre-approved) and any travel outside of the Northern District must be pre-approved. 3. 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. 4. Time spent on overlapping services in multiple cases (e.g. research, court appearances, waiting time) must be prorated appropriately among the vouchers for cases on which the time was spent and may not exceed the actual time expended. 5. 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. 6. 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.
<p>Reimbursable</p>	<p>Proof of payment is required for all itemized expenses in excess of \$50. (receipt, copy of canceled check, credit card statement). An Invoice is not considered proof of payment.</p> <ol style="list-style-type: none"> 1. Computer-assisted legal research. 2. Telephone toll calls. 3. Facsimile transmission (limited to \$.10 per page). 4. Copying (limited to \$.20 per page or actual cost, whichever is less and include number of copies/faxes).

<p>Non-Compensable</p>	<p>Clerical work, even if performed by an attorney, may not be claimed:</p> <ol style="list-style-type: none"> 1. Completing and submission of voucher. 2. Travel arrangements. 3. Printing and storing. (e.g. NEF's) 4. Reviewing attorney's own NEF's or filing for co-defendants unless relevant to the presentation. 5. Time spent in a State or County court. 6. Time copying. 7. 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). <i>Moved from Compensable section</i> 8. 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. 9. Time expended on extended discussion of established 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: <i>Booker, Gall, Kimbrough</i>, etc.", or "cut and paste" of legal and historical discussions about <i>Booker</i> 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.
<p>Non-Reimbursable</p>	<ol style="list-style-type: none"> 1. Items of personal nature purchased for person represented: <ul style="list-style-type: none"> -Clothing, -Cigarettes, candy, meals, alcohol 2. Overnight Travel not pre-approved by the presiding judge, including: lodging, meals, alcohol
<p>Description of Claims</p>	<ol style="list-style-type: none"> 1. Must be adequate to understand the service and to evaluate the reasonableness of the time claimed. 2. Claims for legal research must state the issue researched. 3. Claims for document review may not exceed actual time spent and must state specifically the nature of material reviewed and number of pages. 4. Claims for Mileage must state the starting location (attorney office not home, unless home is their office) and destination. 5. Conferences with family representatives must reference the subject.

<p>Record Keeping Retention/Audit Voucher Submission</p>	<ol style="list-style-type: none"> 1. Attorneys must maintain contemporaneous time and attendance records in eVoucher for all work performed. 2. The Court shall review the claim form for mathematical and technical accuracy, and for conformity with the <u>Guidelines for the Administration of the Criminal Justice Act (See: Vol 7, Guide to Judiciary Policies and Procedures)</u>. 3. 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 <i>CJA Guidelines</i>. 4. The court will exert its best effort to avoid delays in reviewing and processing payment vouchers. 5. Records are subject to audit and must be retained for three years after approval of a final voucher for appointment. 6. The Court will conduct an annual review of attorneys who have claimed compensation of more than 1,000 hours in the preceding fiscal year. 7. An attorney may be required to perform a self-audit or independent audit for the Court. 8. Proof of payment is required for all itemized expenses in excess of \$50.00. This includes a receipt, copy of cancelled check, or credit card statement. An Invoice is not considered proof of payment. 9. CJA-20 Vouchers should be submitted for payment no later than 45 days after the final disposition of the case, unless good cause is shown. CJA-21 Vouchers are to be submitted immediately following the service completed by the expert, and not at the conclusion of the case.
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**Interpreters /
Other Experts**

1. Experts are reimbursed via a CJA-21, which the attorney completes and submits on behalf of the expert.
2. Any service over \$900, excluding expenses, must be pre-approved.
3. For Expert Services, the maximum applies per representation, not per service-type.
4. Travel by the Expert: must provide a breakdown of travel expenses (parking, tolls, mileage from starting location, destination, number of miles traveled)
5. CJA-21 Vouchers are to be submitted promptly following the service completed by the expert, not at the conclusion of the case.
6. 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 \$900.00 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.
7. 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.

Refer to the CJA page of the NYND web-site for guidance:
<http://www.nynd.uscourts.gov/criminal-justice-act>
'Guide to Expert Authorizations and CJA-21s/CJA-31s'.

<p>Travel</p>	<ol style="list-style-type: none"> 1. Only actual time spent traveling may be claimed. 2. Travel time and mileage to and from courthouse is computed from attorney's office, not the attorney's home, unless their home is the office. 3. Reasonable within-district travel for investigative purposes (e.g. travel to a local jail to meet with client on an issue that could not be discussed over the phone) are reimbursable. 4. Actual mileage driven must be recorded for all mileage claims. 5. Receipts must accompany all claims, including parking, tolls, taxi, airfare hotel, etc. 6. Reimbursement for meals is allowable only when the traveler has received authorization for overnight stay. Receipts are required for all meals claimed (regardless of the amount). 7. No reimbursement for alcohol. 8. Reimbursed for the actual cost of reasonably incurred travel expenses. 9. Per diem may not be claimed in lieu of subsistence expenses. 10. CJA Panel Members who do not maintain an office within the NDNY will only be reimbursed for their mileage and travel time accrued while traveling within the boundary of the Northern District. <i>(Mileage and travel time outside of the District is not reimbursable).</i> <p>* Advance Authorization is Required for travel outside the district and/or for overnight travel*</p> <ol style="list-style-type: none"> 1. Submit a Travel Authorization in eVoucher, listing anticipated travel expenses and reasons for travel. 2. If overnight travel is authorized, contact the Court to obtain the current Per Diem rates
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