

Instructions for Completing the CJA Form 30 in eVoucher:

**DEATH PENALTY PROCEEDINGS:
APPOINTMENT OF AND AUTHORITY TO PAY
COURT APPOINTED COUNSEL**

UNITED STATES COURT OF APPEALS
For the Eighth Circuit

March 28, 2018

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GENERAL INFORMATION

Personal Appointments

All attorneys appointed under the Criminal Justice Act are appointed personally and individually. Payment on a CJA claim is made to the individual rather than to the firm or organization with which the individual is associated. However, the Administrative Office (AO) has made provisions for reporting CJA income as firm income rather than personal income of the attorney. If the attorney has a pre-existing financial agreement with his or her employer that CJA earnings belong to the law firm or corporation, the employer's tax identification number must be added to the billing information on the attorney's profile in eVoucher. It is the attorney's responsibility to ensure this information is accurate. An attorney may have two billing addresses in the attorney's profile. The check will be mailed to the address indicated as the default billing information.

Attorneys will receive a notice of docket activity (NDA) that a court order has been entered in CM/ECF appointing the attorney to the case. The attorney will then receive an email notification from eVoucher advising that an appointment has been entered in eVoucher. The email notification will contain login and password information, and information about updating the attorney's profile.

The Criminal Justice Act provides for the appointment of two attorneys where the sentence of death has been imposed. The court will consider the number of counsel needed in cases where the defendant is charged with an offense that may be punishable by death, but where the death penalty is not sought or the sentence of death has not been imposed in the District Court.

Submission of Vouchers for Payment

In appeals of capital prosecutions or appeals in habeas corpus proceedings, counsel may submit CJA vouchers at the conclusion of particular stages of the proceedings. Generally, a voucher may be submitted at the conclusion of the appeal, following a petition for writ of certiorari, and following the request for a stay of execution. Counsel must indicate on the voucher in the Claims Status tab what stage is covered by the voucher. Only one stage is allowed for any voucher. The court prefers to consider together the vouchers from all counsel appointed in a case and the clerk's office may hold a voucher from one attorney until the voucher from the other attorney is submitted for that stage of proceeding. Counsel are advised to submit their CJA vouchers promptly.

Review Process

Upon submission to the Clerk's office, the claim is audited to check for mathematical errors, non-reimbursable expenses, completeness of attachments, and eligibility. If there is information missing, the voucher will be rejected and the attorney will receive an email notification that the voucher is being returned; the reasons for the rejection will be listed in

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the email. The attorney may resubmit the voucher after the corrections have been made. Then, if there are no other problems to be corrected, a cover letter is prepared and the claim is submitted to the Court. (The claim is submitted to the panel which considered and decided the case.) The award determination is made by the Court and the claim is returned to the Clerk's Office. The data related to both the appointment and the claim is verified as complete and accurate. A check is then issued (and sent to appointed counsel) within 48 hours from the Disbursing Office in Washington D.C. On the day that the data is certified for payment, the appointed counsel will receive an email notification through eVoucher that processing has been completed.

CREATING A VOUCHER - CJA 30

From the home page in eVoucher, the appointment will be listed on the Appointment's List. Click on the case number and Create the New Voucher from the menu on the left hand side of the page. Next to CJA - 30, click Create

CJA FORM 30

Following are instructions for completing the CJA Form 30 in eVoucher. Please note that these instructions may differ slightly from those you may receive from the various District Courts because they pertain only to claims filed as a result of representation in an appeal before the Eighth Circuit.

Representation in Death Penalty Cases

The Anti-Drug Abuse Act of 1988 removed statutory limitations for CJA representations in death penalty cases. The change allows the judge reviewing the claim to determine the amount which will fairly compensate appointed counsel without regard for previously established limits. The judge is also free to set appropriate hourly rates to compute the claim. The "Antiterrorism and Effective Death Penalty Act of 1996" has fixed the maximum hourly rate payable in death penalty cases. Effective January 1, 2015, the hourly rate for both in-court and out-of-court time is increased to \$181 per hour, effective January 1, 2016, the hourly rate for both in-court and out-of-court time is increased to \$183 per hour, effective May 5, 2017, the hourly rate for both in-court and out-of-court time is increased to \$185 per hour, and effective March 23, 2018, the hourly rate for both in-court and out-of court time is increased to \$188 per hour.

SERVICES TAB

In-Court Time (a): In-court time directly related to the appeal may be claimed in this portion of the form. In-court time expended in relation to the presence at oral argument

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may be claimed on the *Appeals Court (a)* category. List times in **hours and tenths of hours**. eVoucher will calculate the appropriate hourly rate based on the date of service.

Out-of-Court Time (b-j): Out-of-court time expended in relationship to the appeal may be claimed on categories b through j. Indicate times in **hours and tenths of hours**. eVoucher will automatically calculate the applicable hourly rate based on the date of service.

EXPENSES TAB

An itemization of expenses is required detailing the date, type of expense, and amount. This itemization should be accompanied by any and all receipts obtained for the expenses incurred. For all claims, itemize those expenses according to the expense types listed. Include all travel-related expenses under the Travel Misc. category and describe each attached document, in PDF format, with specificity.

Non-reimbursable Expenses¹

1. General Office Overhead This includes expenses which would normally be reflected in the fee charged to the client. Therefore expenses such as personnel costs, rent, telephone service, and secretarial help (whether regularly or specially employed, performing normal, overtime, or supplemental work, and even if counsel has no regularly employed secretary) are not reimbursable.
2. Items and Services of a Personal Nature The cost of items of a personal nature purchased for or on behalf of the person represented, such as purchasing new clothing, or having clothing cleaned, getting a haircut, furnishing cigarettes, candy or meals is not reimbursable. The cost of services such as assisting the defendant in the disposition of his or her personal property, arranging for the placement of minor children of the defendant, or assisting the defendant in executing the conditions of probation is not reimbursable.
3. Filing Fees Attorneys should not be required to pay a filing fee in a Criminal Justice Act case inasmuch as such payment and reimbursement thereof is tantamount to the Government billing itself to accomplish a transfer of appropriated funds into the General Fund of the Treasury. If a filing fee is paid by an attorney who is subsequently appointed in the case, he or she should petition the District Court for a refund of that fee.

¹ This information is adapted from Vol. 7, Chapt. 2, Part A, § 230.66 of the Guide to Judiciary Policy.

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4. Printing of Briefs The expense of commercially **printing** briefs, regardless of the printing method utilized, is not reimbursable; however, the cost of mimeographing, photocopying, or similar **copying** service is reimbursable.

5. Travel-related Expenses Alcoholic beverages are not reimbursable expenses. Car rental is not reimbursable (the court will reimburse expenses for public transit, airport shuttle services, and taxi).

Receipts

Specifically, receipts **are required** for the following expenses: These receipts must be scanned as PDF documents and attached to the voucher in the documents section.

1. Long distance phone charges in excess of \$50.00. Calls must be itemized by date, person called, and amount. Applicable charges should be highlighted.

2. All photocopy charges incurred outside of appointed counsel's office. (Copies made "in-house" will be reimbursed in an amount up to and including 15¢ per page. An indication of the number of copies made and the cost per copy is required.)

3. All expenses related to travel for the purpose of presenting oral argument including hotel accommodations, meals, coach air fare, and ground transportation. The hotel's detailed receipt, showing the cost of the room and the taxes charged is required. Travel by personal automobile is reimbursable at the following per mile rates:

<u>DATE TRAVEL OCCURRED</u>	<u>REIMBURSABLE AMOUNT</u>
On or after April 17, 2012	55.5¢/mile
On or after January 1, 2013	56.5¢/mile
On or after January 1, 2014	56.0¢/mile
On or after January 1, 2015	57.5¢/mile
On or after January 1, 2016	54.0¢/mile
On or after January 1, 2017	53.5¢/mile
On or after January 1, 2018	54.5¢/mile

[Reimbursement for use of a personal automobile will be limited to the cost of round-trip, coach air fare applicable to the same trip. Counsel will be reimbursed for actual subsistence for lodging and meals. Please use discretion in arranging hotel accommodations.]

4. Expenses related to computer assisted legal research, (**LEXIS, WESTLAW**), must be accompanied by receipts that show the method of billing and the total time spent using the computerized system. A statement of the issues researched and

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an estimate of the amount of time necessary to do the research manually must also be included. Applicable charges should be highlighted.

5. Postage expenses for overnight delivery, express mail, or courier services require a detailed receipt.

CLAIM STATUS TAB

Indicate the dates between which services were performed on the instant voucher by appointed counsel and check either **Final** or **Interim** payment. Also, please be sure to answer all applicable questions including the question beginning "Has the person represented...". Be sure to select the applicable Stage of Proceeding.

CONFIRMATION TAB

After the voucher is reviewed, click on the affirmation box at the bottom of the voucher. The date will populate automatically to the current date. Press **Submit**. The voucher will be submitted to the court for review. You will be able to view the voucher in read-only format while the voucher is with the court.

TRAVEL

CJA-appointed attorneys are authorized to obtain government rates for hotels and airline travel in connection with their representation under the Act. The clerk's office will provide counsel requiring air transportation to attend oral argument with a travel authorization allowing them to use the services of National Travel to book the reservation and issue the airline ticket. The cost of the ticket will then be paid directly through the CJA payment system. Attorneys are advised to carry the travel authorization with them when they travel. Should counsel's travel plans change or require cancellation, counsel is requested to advise National Travel and the clerk's office promptly so that any charges may be properly credited.

Many hotels will offer CJA-appointed attorneys government rates for their travel in connection with their representation under the Act. Counsel are encouraged to avail themselves of reduced government rates whenever possible. Hotel charges may not be billed directly to the court's CJA account, but will be reimbursed at the conclusion of the case.

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Additional guidance regarding travel rules may be found at Guide to Judiciary Policy, Vol. 19, Chapt. 4, found as a Link on eVoucher and at: <http://www.uscourts.gov/RulesAndPolicies/TravelRegulations.aspx>.

COMPENSATION OF PARALEGALS, LEGAL ASSISTANTS, AND LAW STUDENTS

Paralegals, legal assistants, and law students may be compensated at an hourly rate less than that paid to appointed counsel. Requests for compensation for time expended by paralegals, legal assistants, and law students must be submitted on a CJA Form 31. No prior authorization is required, but the court must enter the service provider's information into the eVoucher database before a CJA 31 voucher may be submitted to the court. See Instructions for Completing CJA 21/31. Counsel shall provide an explanation of the services provided, the basis for the hourly rate requested, and the time expended. Reimbursement will not be provided for services that are considered secretarial work, even if provided by paralegals or legal assistants. Counsel should itemize the services provided. The CJA Form 31 should be submitted with the final CJA 30 after the mandate has issued.

Any questions you might have about the preparation of the voucher or its attachments should be directed to **Diane Hogenmiller or Robin Weinberger** in the Clerk's office at (314) 244-2400.