

Making the Most of Your CJA Appointment

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United States District Court for the Northern District of Texas, Dallas Division

Summer 2023

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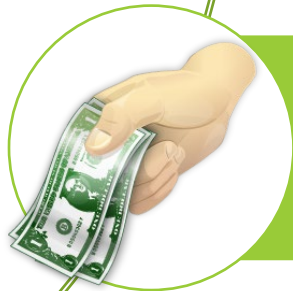
OVERVIEW



Appointment, scope, duration, compensation, nomenclature, record keeping



Requesting second counsel, non-attorney services, budgets, travel



Preparing vouchers

Where to find CJA Info:

CJA GUIDELINES, Guide to Judiciary Policy, Vol. 7A

- <https://www.uscourts.gov/rules-policies/judiciary-policies/criminal-justice-act-cja-guidelines>. Chapters 2, 3

DISTRICT COURT CJA PLAN

- <https://www.txnd.uscourts.gov/miscellaneous-orders>. Misc. Order No. 3

FIFTH CIRCUIT CJA PAGE and BUDGET APP

- <https://www.lb5.uscourts.gov/cja2/>
- <https://eba.fd.org/>

eVOUCHER LINKS Tab

- https://aoev-w-app05.adu.dcn/CJA_txn_prod/CJAeVoucher/Pages/Help/Links.aspx



Applying for Appointments

CJA Panel Applications by Division

<https://www.txnd.uscourts.gov/cja-panel-applications>

Mentor Program

training platform structured for mentees to acquire and demonstrate eligibility for membership on the CJA Panel

- CJA Plan, Section VIII(C) (p. 11):
<https://www.txnd.uscourts.gov/sites/default/files/orders/misc/MiscOrder3Criminal.pdf>
- Mentoring Form:
<https://www.txnd.uscourts.gov/sites/default/files/documents/CJAMentoringForm.pdf>.



Representation overview

“Compensation” is for services,
whether by attorney,
investigator or expert

“Reimbursement” is for
expenses or out-of-pocket
costs

\$164/hour
Guide § 230.16

Case compensation maximums
are based on hourly rates.
Guide § 230.23.10(h)

Substitute counsel share the
case compensation maximum
with prior appointed counsel.
Guide § 230.56.

Appointment lasts through the
appeal unless judge allows you
to withdraw.
Guide § 220.20.

Scope includes ancillary
matters “appropriate to the
proceedings.”
Guide § 230.23.10(g)
Guide § 210.20.30(c)



Attorney Case “Compensation” Maximums

Expenses not included.

18 USC § 3006A(d)(3); Guide § 230.23.20

Non-capital felony, § 2241, § 2254, §2255	\$12,800
Misdemeanors	\$3,600
Other (material witness, SR, target letter)	\$2,700

Compensation exceeding these amounts requires Circuit approval.



Record Keeping

Appointed counsel must maintain **contemporaneous time and attendance records** for all work performed by associates, partners, and support staff as well as expense records. Such records are subject to audit and must be retained for three years after approval of final voucher.

Guide § 230.76.





Financial Eligibility

Standards are in the Guide § 210.40. Doubts are resolved in favor of eligibility and appointment of counsel.

Error can be corrected at sentencing through reimbursement order.

Counsel will advise the court if they have reason to believe client is financially able to obtain counsel or make a partial payment, and the source of information is not privileged. Guide § 210.10.30; CJA Plan, Section XI(E)(3) (p. 17)



▶ Basic Info

▶ Services

▶ Expenses

▶ **Claim Status**

▶ Documents

▶ Summary

▶ **Confirmation**

Claim Status

Start Date *

End Date *

Payment Claims *

- Final Payment (payment #)
- Interim Payment
- Supplemental Payment
- Withholding Return Payment

** Reminder: Please select the appropriate claim status.

1. Have you previously applied to the court for compensation and/or reimbursement for this case? *

Yes No

If Yes, were you paid?

Yes No

2. Other than from the Court, have you, or to your knowledge has anyone else, received payment (compensation or anything of value) from any other source in connection with this representation? *

Yes No



APPROVED FOR PAYMENT - COURT USE ONLY				
23. IN COURT COMP. \$0.00	24. OUT OF COURT COMP. \$0.00	25. TRAVEL EXPENSES \$0.00	26. OTHER EXPENSES \$0.00	27. TOTAL AMT. APPR./CERT. \$0.00
28. SIGNATURE OF THE PRESIDING JUDGE			DATE	28a. JUDGE CODE
29. IN COURT COMP. \$0.00	30. OUT OF COURT COMP. \$0.00	31. TRAVEL EXPENSES \$0.00	32. OTHER EXPENSES \$0.00	33. TOTAL AMT. APPR./CERT. \$0.00
34. SIGNATURE OF THE CHIEF JUDGE, COURT OF APPEALS (OR DELEGATE) <i>Payment approved in excess of the statutory threshold amount</i>		DATE	34a. JUDGE CODE	TOTAL AMT. CERTIFIED FOR PAYMENT

Attention: The notes you enter will be available to the next approval level.

Public/Attorney
Notes

Write your notes here

Private/Court
Notes

No previous payments. Voucher was previously returned for entries for more information for entries for letter with client and administrative task but still did not provide. Ran attorney time report, no overlapping travel time. ts

7/5/23 sent email to counsel re clerical work and needed detail. ks

Appointment
Notes

Attorney appointed 10/4/22, sentencing held 6/2/23

I certify that I have reviewed the above information

Date:



[Approve](#)



[Reject](#)



Authorizations

("Requesting Permission")

Required for:



Additional counsel



Investigators, Experts & Others



Air Travel, Hotels



Two Types of Co-Counsel

General Rule

- Panel attorneys who voluntarily seek appointments are expected to have the skill and experience necessary to represent the client solo in all but “extremely difficult” cases.
- Lawyers are appointed, not law firms.

With Appointment (Guide § 230.53.20)

- Move for appointment of co-counsel in “extremely difficult case” and show it is in the interest of justice
- Each attorney is eligible for the compensation maximum.

Without Appointment (CJA Plan, Ch. XII.B.2)

- for de minimus time, when you can't be available
- claim on your voucher
- share compensation max
- can be requested in advance
- 1099-MISC



Investigators, Experts, and Others

18 USC § 3006A(e), Guide § 310.10

Counsel for a person who is financially unable to obtain investigative, expert, or other services necessary for adequate representation may request them in an ex parte application.

Statutory language allows pro se defendants and retained counsel to request funds.



Court will inquire into the fee arrangement of retained counsel. If the fee is unreasonable or grossly disregards defendant's trial expenses, the court may order retained counsel to pay for the services out of their own fees.



When authorization is required . . .

NOT REQUIRED	REQUIRED
<p>If total for <i>all services combined</i> is less than or equal to \$900.</p> <p>Explain in Attorney Notes why services were necessary for a defense purpose.</p> <p>Payment is not guaranteed.</p>	<p>If compensation for <i>all services combined</i> will exceed \$900. Guide § 310.20.30.</p> <p>If compensation per provider will exceed \$2,800, you need circuit court approval as well.</p> <p>Upload the appropriate authorization order when you create voucher.</p> <p>Payment is not guaranteed.</p>



Ex parte Application for Authorization of investigator or expert services

1

Address whether defendant has ability to pay for expert

2

Identify the tasks that you want provider to perform

3

Identify pay rate and total \$ amount.
Identify amounts already incurred.

4

State with specificity why requested services are needed for adequate defense

5

If > \$2,800, show services are of "unusual character or duration"
Guide §310.20.20

6

Disclose any relationship with provider.
Guide § 310.20.05(a)

7

Attach provider's resume.



Creating Service Provider Vouchers

- Log into eVoucher
- Select case from Appointment List and create CJA 21 voucher
- Select “No AUTH”
- Enter time
- ≤ \$900: upload invoice, describe defense purpose in Attorney Notes
- >\$900 : upload invoice, attach authorization (or explain its absence)
- Submit voucher twice
- Submit voucher twice



Computer Hardware/Software Authorizations

- Need service provider authorization (CJA 21) to acquire hardware, software, or related services *not typically in a law office*.
- If >\$10,000, consult with National Litigation Support Team in Defender Services Office. Guide § 320.70.40
- Property must be returned to Defender Services upon completion of case.



CJA
RULES

- If you buy a storage device at moderate cost that will become part of the client's file, claim it as an expense. Reimbursement is not guaranteed.
- I always recommend you consult National Litigation Support Team.
- You are expected to review voluminous eDiscovery with "discipline & focus"

REAL
LIFE



CASE BUDGETS

The Guide § 230.26 encourages budgets if

attorney time = 300 hours

or

total expenditures = \$50,000 (300 x \$164).

- **Earlier payments.** Interim vouchers paid at 80% without Circuit approval.
- **Efficient:** Authorize all service providers and attorneys at once.
- **Manage expectations:** Budgets don't guarantee payment but can make payment more likely and quicker.



BUDGET PROCEDURE

Budget App: <https://eba.fd.org/>

Log in to eba.fd.org to develop your budget and transmit to Meg Alverson.



Consult with Meg Alverson, Circuit Case Budgeting Attorney
504-310-7799



File an *ex parte*, sealed "Motion for Case Budget" in district court.



If granted, district court order will be sent to circuit for approval.



If circuit judge approves, circuit order will be filed in district court case docket.



Travel Authorization

If you don't get prior authorization for hotel or airfare, reimbursement is limited to the government rate.

Instructions and authorization forms are at www.txnd.uscourts.gov (CJA Handbook, Ch. VII.C.2)

Judiciary Staff Travel Regulations | United States Courts (uscourts.gov)

Travel Authorization

Authorized Traveler:

Authorized Travel Date:

Purpose of Travel:

Case Number and Style:

Pursuant to Section 702 of the Federal Courts Administration Act of 1992, Public Law 102-572, 106 Stat. 4506, you are hereby authorized to obtain government travel rates for the above-described trip in connection with your providing representation under the Criminal Justice Act (CJA).

You are authorized to contact National Travel Service at 1-800-445-0668 (24 hours a day Monday - Friday) to request reservations and airline tickets. You must advise National Travel Service that your tickets are to be charged to the CJA account for the District Court for the Northern District of Texas. You may instruct National Travel Service where to deliver your ticket and you should request an e-ticket whenever possible.

A copy of this Travel Authorization, as well as a copy of the airline tickets which were provided by National Travel Service, must be attached to your voucher for audit purposes. Our internal accounting control number for this trip is Internal Control Number 06-CJAPANL-DS01.

Sincerely,

U.S. District Judge

Date: _____

cc: Richard Holt

Interim Vouchers, [Guide, § 230.73.10](#)

1. Available in extended or complex representations, where necessary and appropriate
2. Requires *ex parte* motion filed on the docket
3. Explain how the requested interim payment will balance:
 - the interest in relieving court-appointed attorneys of financial hardships
 - against the practical application of the court's responsibility to provide meaningful review of claims for excess compensation



ATTORNEY VOUCHERS

Audit Rules & Billing Practices





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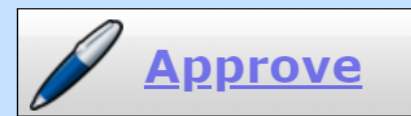
Attention: The notes you enter will be available to the next approval level.

Public/Attorney Notes
Write your "good cause" here

Private/Court Notes
No previous payments. Voucher was previously returned for entries for more information for entries for letter with client and administrative task but still did not provide. Ran attorney time report, no overlapping travel time. ts
7/5/23 sent email to counsel re clerical work and needed detail. ks

Appointment Notes
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I certify that I have reviewed the above information
Date:



The 45-day rule

Submit vouchers no later than 45 days after representation concludes or provide "good cause" why you did not.

Guide § 230.13



Review of Time Claimed

See 18 USC § 3006A(d)

In-court time is paid according to minute entries in the docket

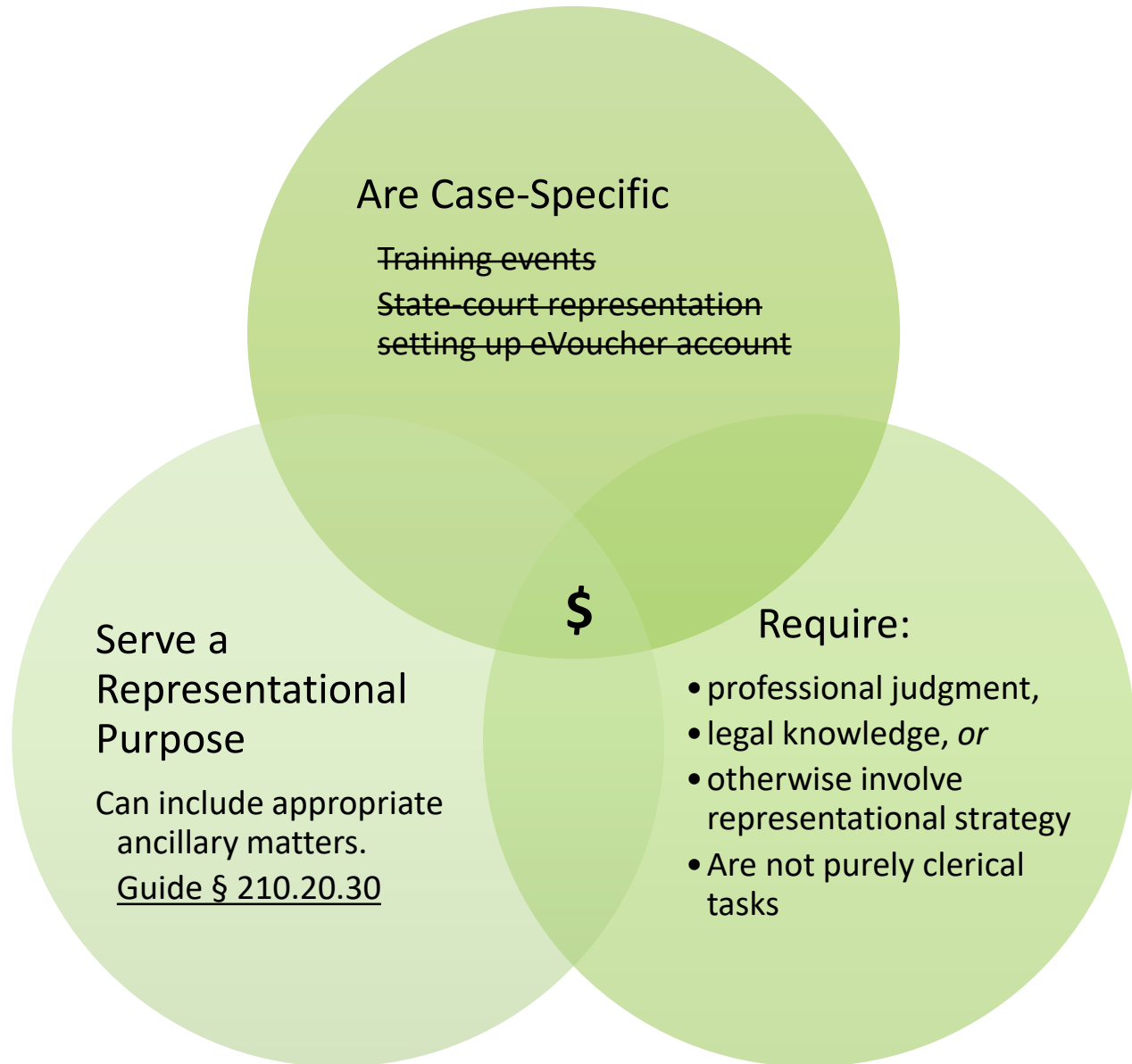


Out-of-court time is reviewed for compensability and reasonableness.



COMPENSABLE TASKS GENERALLY . . .

*Nearly all
communication from the
court is an attempt to
gather this type of
information from you.*





Common Billing Errors

Insufficient Detail

- for discovery – include amount and type
- conferences – include type, who with, and general topic of discussion
- identify the task performed, the issue researched, the motion drafted

Omitting CM/ECF Numbers

- place CM/ECF docket numbers in blue area at top of page
- do this for hearings, motions, orders, pro se filings

Purely Clerical Tasks Guide § 230.66.10

- scheduling-related communications, non-substantive voicemails
- e-filing, printing, mailing, delivering plea documents and discovery drives
- accessing, renaming, saving, printing, forwarding electronic files, including NEFs.

Billing the Minimum

- counsel is expected to bill “actual time” whenever possible
- aggregate tasks of the same service type that do not take 6 minutes to complete

Block Billing

- eVoucher has service types for various tasks – use the appropriate one
- do not combine tasks of different service types



THE RULE AGAINST DOUBLE BILLING

Guide § 230.50 (e), (f), (g)

PRORATE TIME

Time spent in common on more than one client must be prorated between the vouchers.

CROSS REFERENCE

Each case must be cross-referenced in the vouchers

NON-CJA CLIENTS

This includes CJA clients

EXPENSES

Expenses applicable to more than one CJA representation can be billed to one representation.



Checklist for Submitting Attorney Vouchers

1. Log into eVoucher
2. Select case from Appointment List (call Tammy if it's not there)
3. If you see only the MJ case number, that's ok
4. Enter time and expenses by day; save often
5. Include CM/ECF docket numbers (blue area at top of page)
6. Upload receipts over \$50 under "Documents" tab



Checklist for Excess Attorney Vouchers

Upload . . .

1. CJA 26 form (find in eVoucher Links)
2. Memorandum to District Judge -
 - a. extended or complex?
 - b. necessary to provide fair compensation?

See Guide § 230.30.



Memo
to
Judge
Must
Address

Extended Representation

Longer than 1 year

Complex Representation

Having unusual legal or factual issues, “thus requiring the expenditure of more time, skill, and effort by the lawyer than would normally be required in an average case.”

A representation is not necessarily complex just because the case is complex under the Speedy Trial Act. Guide § 230.23.40(b)

Fair Compensation (Guide §230.23.40(c))

- Responsibilities involved measured by the magnitude and importance of the case.
- Manner in which duties were performed.
- Knowledge, skill, efficiency, professionalism, and judgment used by counsel.
- Nature of counsel’s practice and injury thereto.
- Extraordinary pressure of time or other factors under which services were rendered.
- Other circumstances relevant and material to a determination of a fair and reasonable fee.
- If you are substitute counsel, the inability to use the work completed by prior counsel is a factor for determining reasonableness.



EXPENSES

GENERAL RULE

Guide § 230.63.10

- Out of pocket expenses reasonably incurred, itemized and reasonably documented may be claimed
- Non-attorney services (paralegal, investigator) are NOT considered out-of-pocket expenses.

REIMBURSABLE

Guide § 230.63

- Transcripts, travel expenses, non-overhead videoconferencing, copies, thumb drives, etc.
- For expenses >\$500, interim reimbursement is available

NOT REIMBURSABLE

Guide § 230.66

- Office overhead (personnel, rent, internet service, secretarial)
- Items of personal nature (haircut, dry cleaning, meals)
- Filing, PHV, or PACER fees



Miscellaneous

Fact Witnesses	fees and expenses of fact witnesses are generally paid by DOJ, not the CJA. Fed. R. Crim. P. 17(b); 28 USC § 1825; <u>Guide § 320.40</u> .
Receipts	expenses over \$50 require receipt
Copies	Itemize in-house copies: ___ x 15¢. Copy service must not exceed 25¢/page; receipt required if copy service exceed 15¢/page. Requests for copies in the District Clerk's Office are free to Panel members.
PACER	fee-exempt PACER account instructions: <u>Activating CJA Privileges - Learning Aid.pdf (uscourts.gov)</u>
Mileage	calculate car mileage from home or office to avoid commute distance.
Non-compensable tasks	consider including these in eVoucher, without claiming any related time, to show that they were done



Voucher Cuts

- The **Guide § 230.33.10** states that voucher reductions should be limited to:

- Mathematical errors
- Non-compensable work
- Work not undertaken or completed
- When the hours billed are clearly in excess of what is reasonably required to complete the task

- **What is your recourse when a voucher is cut?**
- Notice and an opportunity to be heard for cuts that exceed 1 hour (except for math errors or clearly clerical work). CJA Plan, XII(B), p. 18.
- Request CJA Committee to review and make recommendation to judge. CJA Plan, VIII(B)(6), p. 11.

Questions?

This Powerpoint slide deck will be on the Court's website under Attorneys/CJA Attorney Information/Links & Resources (top of the list).

CJA Help Desk: 214-753-2173

Tammy: 214-753-2209

Kim: 214-753-2192