

**UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT**

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**CRIMINAL JUSTICE ACT (CJA)  
CLAIMS FOR HOURLY COMPENSATION AND EXPENSE REIMBURSEMENT**

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**ADVICE TO CJA COUNSEL REGARDING NON-CAPITAL CASES**

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**I. General Statutory Provisions and Procedures.**

Counsel should be familiar with the Criminal Justice Act (18 U.S.C. § 3006A) (“CJA”), [the \*Guidelines for Administering the CJA\*](#) (“*Guidelines*”), the Court’s Criminal Justice Act Plan (Addendum I to the Tenth Circuit Rules), and this *Advice to CJA Counsel* letter. Additional resources are available at the Circuit’s [CJA section of the court’s website](#). Counsel appointed to provide appellate representation under the Criminal Justice Act may be compensated for time “reasonably expended and necessary for competent representation” and expenses “reasonably incurred.” 18 U.S.C. § 3006A(d)(1). See the CJA section of the court’s website (link above) for the current presumptive compensation maximums. These presumptive maximums may be exceeded if the representation provided was “extended or complex” and there is a judicial certification that excess payment is necessary to afford fair compensation. Excess payment must also be approved by the chief circuit judge or his delegate. *See* § 3006A(d)(3).

**II. When to File.**

Either one voucher may be submitted via [eVoucher](#) within 45 days of the final disposition of the case, or interim vouchers may be submitted at logical intervals throughout the representation (e.g., after filing the opening brief and/or the reply brief and after oral argument). “Final disposition” is the later of: (a) the date a petition for certiorari, if any, is filed; (b) the date the decision becomes final, or the appeal is otherwise terminated, if no petition for certiorari will be filed; or (c) the date an order is filed granting counsel permission to withdraw if no subsequent CJA counsel will be appointed (i.e., the defendant will proceed with retained counsel, with the Federal Public Defender as counsel, or pro se). Once any petition for certiorari is filed, counsel need not wait for the disposition of the petition and should file their appellate CJA voucher immediately. Should certiorari be granted, the Supreme Court will provide counsel a CJA voucher for work before that court.

**III. How to File a CJA 20 Voucher.**

All appellate CJA vouchers must be prepared and submitted electronically via the Tenth

Circuit's CJA eVoucher program, which can be accessed at:

[https://evsdweb.ev.uscourts.gov/CJA\\_c10\\_prod/CJAeVoucher/](https://evsdweb.ev.uscourts.gov/CJA_c10_prod/CJAeVoucher/)

Information about eVoucher, including training and reference materials for CJA counsel, can be found at: <http://www.ca10.uscourts.gov/cja/evoucher>.

#### **IV. Excess Compensation Claims.**

Counsel seeking hourly compensation above the [statutory maximum](#) must attach a concise memorandum or a completed [CJA 27 form](#) explaining why (1) the representation was extended or complex, (2) excess payment is necessary for fair compensation, and (3) the time and expenses were “reasonable and necessary” to the particular appeal to the CJA 20 voucher. If the legal or factual issues in a case are unusual, thus requiring the expenditure of more time, skill, and effort by the lawyer than would normally be required in an average case, the case is “complex.” If more time is reasonably required for total processing than the average case, the case is “extended.”

Criteria to aid the court in determining if excess payment is necessary to provide fair compensation may include, among others, the complexity/novelty of the issues and whether any of these issues were briefed at the district court; matters researched but not briefed; responsibilities involved measured by the magnitude and precedential importance of the case; the manner in which duties were performed; special skills, knowledge, efficiency, professionalism, judgment, and experience required of or used by counsel; the nature of counsel's practice and any injury to it resulting from the representation; any unusual pressure of time or other factors under which professional services were delivered; and any other circumstance relevant and material to a determination of a fair and reasonable fee.

#### **V. Interim Compensation/Case Budgeting.**

Interim compensation is allowed so long as the interim vouchers are submitted at logical intervals (e.g., after filing the opening brief and/or the reply brief and after oral argument). Case budgeting is appropriate in complex or extended representations that appear likely to become or have become extraordinary in terms of potential cost (ordinarily, a representation in which counsel expects to exceed 300 hours). If the court determines that case budgeting is appropriate (either on its own or upon request of counsel), counsel must submit a proposed initial litigation budget for court approval, subject to modification in light of facts and developments that emerge as the case proceeds. Counsel should carefully review the case budgeting information found in the [Guidelines](#), §§ 230.26, 640. Please use the proposed budget forms on the [Court's CJA Case Budgeting Webpage](#). The court will review, modify where necessary, and approve the proposed budget. A case management conference may also

be held. In budgeted, extraordinary cases, counsel should support the final fee request by completing a CJA27 form and attaching it to the final submitted voucher. The panel rendering the decision in the appeal will consider the final voucher and supporting documentation.

## **VI. What to File with CJA 20 Voucher**

- A. Use eVoucher to Complete and Submit the CJA 20 Voucher.** A CJA 20 voucher is created by entering time, expenses, and required supporting documentation into the Tenth Circuit's eVoucher database.
- B. Pleadings, Supporting Documentation, and Other Explanatory Material.** A pdf copy of any petition for certiorari, supporting documentation, and any explanations of unusual circumstances (e.g., voucher filed more than 45 days after final disposition, unusual expenditures, etc.) should be attached to the voucher using the "Documents" tab in eVoucher.
- C. Entering Attorney Time in the "Services" Tab of eVoucher.** Time must be itemized by date, description of services, amount of time spent in tenths of hours, and properly categorized. If more than one attorney worked on the appeal, each attorney must insert their initials in the line-item description for each task. The court will round down the total hours claimed if counsel does not report in tenths of an hour. Failure to provide sufficient detail to permit meaningful review of a claim may result in delay or denial of approval of the claim. Counsel must retain records for three years after approval of the voucher.
- D. Avoid excessive billing for simple tasks and expenses.** For example, six minutes (.1 hr) or more is not reasonably and necessarily required to review every Notice of Docket Activity, particularly those not accompanied by any document, nor three-sentence orders, minute orders, transcript order responses, pro forma orders granting extensions of time/setting oral argument, nor other pro forma docket entries. Please combine time spent reviewing several such entries into a single task description. General office overhead is not reimbursable. This includes but is not limited to supplies, overtime, rent, telephone services, mailers/envelopes, secretarial services, and other administrative/clerical services. Professional time spent on secretarial or clerical tasks is not compensable as part of counsel's fee.
- E. Excess-Fee Memorandum/Letter or Completed CJA 27 Form.** If your compensation request (excluding expenses) exceeds the applicable statutory maximum, you must

submit, using the eVoucher “Documents” tab, a concise memorandum/letter or a [CJA 27](#) form explaining why (1) the appeal is complex and/or extended, (2) payment over the cap is necessary to provide fair compensation, and (3) the payment(s) requested is for time and/or expenses reasonably and necessarily incurred for your voucher. A blank CJA 27 and instructions for completing it are available [here](#).

## **VII. Claims for Hourly Compensation - General Rules**

- A. Hourly and Mileage Rates.** The eVoucher application will automatically use the applicable hourly and mileage rates based on the date of the service/expense entered by counsel during the voucher preparation process.
- B. Partners and Associates (Within Firm).** Compensation may be claimed for services provided by a partner or associate in the appointed counsel’s law firm, but extra tasks or other work inefficiencies resulting from such division of labor (e.g., attorney conferencing) are not compensable. The amount must be within the maximum compensation allowed by the Act. Vouchers must separately identify the provider of each service with counsel’s initials in the line-item description.
- C. Compensation of Counsel (Outside Firm).** With prior authorization by the court, appointed counsel may claim compensation for services furnished by counsel who works outside the appointed counsel’s law firm. The amount must be within the maximum compensation allowed by the Act. Extra tasks or other work inefficiencies resulting from such division of labor (e.g., attorney conferencing) are not compensable. Vouchers must separately identify the provider of each service with counsel’s initials in the line-item description.
- D. Withdrawal of Counsel.** With the court's express approval, a CJA attorney appointed to represent a defendant in the lower court may withdraw under 10th Cir. R. 46.4. or continue the representation on appeal. Failure to comply with the requirements of 10th Cir. R. 46.4 will result in denial of the motion. At a minimum, counsel must file an entry of appearance and docketing statement before, or at the same time as, the motion to withdraw. If counsel plans to file a motion to withdraw, it may be appropriate to file a motion to extend the time for filing the designation of record and transcript order form. Those motions will be viewed favorably if a compliant motion to withdraw is on file. For further information about continuing a district court CJA appointment on appeal, please review the court’s CJA Plan.
- E. Time Spent on District Court Matters or Matters Unrelated to Appeal.** Time spent

on district court matters, or other matters unrelated to appellate representation, even if incidental to arrest, incarceration, or on remand, is not compensable on an appellate voucher. Compensation for preparation and submission of preliminary appellate pleadings (e.g., notice of appeal, designation of record, transcript order form) may be claimed on the appellate voucher but not if compensated on the district court voucher.

- F. Travel Time.** Necessary and reasonable travel time is compensable. Time spent in travel by car over long distances ordinarily traversed by air is not reasonable unless required by special circumstances. If a trip requires overnight lodging, compensable travel time includes time traveling from counsel's office or home to the place of accommodation and travel time returning directly to counsel's office or home. Ordinarily, professional time spent traveling to the court to file a pleading is not compensable.
- G. Petition for Writ of Certiorari.** Counsel's time and expenses preparing a petition for a writ of certiorari or responding to a petition for writ of certiorari filed by the government are considered applicable to the case and should be included in the voucher for services performed in this court.
- H. Voucher Preparation.** Time spent preparing the voucher is not compensable.

## **VIII. Expenses Generally.**

- A. Reimbursement is limited to reasonable, actual expenditures.** Counsel should be guided by current limitations on travel expenses applicable to federal judiciary employees found at the GSA website, <http://www.gsa.gov>. Counsel must properly document incurred expenses in the expenses tab of the voucher. Credit card slips and statements lack sufficient detail to permit approval of expenses as reasonable and reimbursable. With certain exceptions (see meals, lodging, CALR, commercial copying), counsel must provide documentation (such as itemized bills, receipts, or invoices) to support claims for reimbursement only for single-event expenses that exceed \$50.00. See Sections IX and X below for further instructions and information. Expenses not properly documented may be disallowed.

## **IX. Travel Expenses – General Rules**

- A. Itemization/Proration.** Counsel must itemize by date travel expenses in the expense portion of the voucher. If travel involves time spent on more than one case, then expenses must be prorated by the number of cases to which the travel relates.

- B. Supporting Documentation for General Travel Expenses.** Counsel must always submit itemized receipts to support reimbursement of meals and lodging. Counsel need only provide itemized receipts to support other single-event travel expenses that exceed \$50.00 (e.g., cab fare from DIA to downtown Denver). Credit card slips and credit card statements lack sufficient detail to permit approval of expenses as reasonable and reimbursable. Expenses not properly documented may be disallowed.
- C. Supporting Documentation for Lodging.** Counsel must sufficiently itemize receipts for lodging to establish that they are not seeking reimbursement for expenses prohibited under the Criminal Justice Act such as safe deposit boxes, hotel safes, in-room movies, alcoholic beverages, and room-service.
- D. Supporting Documentation for Meals.** Counsel must sufficiently itemize receipts for meals to establish that they are not seeking reimbursement for expenses prohibited under the Criminal Justice Act such as alcoholic beverages or charges for persons other than appointed counsel.
- E. Credit Card Statements and Slips.** Credit card slips and credit card statements lack sufficient detail to permit approval of expenses as reasonable and reimbursable. Expenses not properly documented may be disallowed.
- F. Travel Reservations.** Air travel, lodging, and rental car arrangements should be made at government rates through National Travel Service (NTS). Contact NTS at 1-800-445-0668 to request airline tickets. Counsel must provide a credit card number to make reservations. However, airfare will be paid directly by the government. Lodging and rental car charges must be paid directly by counsel and reimbursed on a voucher request. All reservations needed (airline, hotel, rental car) should be made at the same time. There is a charge for itinerary changes, and all itinerary changes must be made through NTS. Reimbursement for travel not made through NTS is limited to the government rates.
- G. Travel by Private Automobile.** Mileage is reimbursable at the rate prescribed for federal judiciary employees conducting official business. Absent an emergency or other unusual circumstance, if travel is by automobile, reimbursement of mileage expense will not exceed the airfare charge had NTS made counsel's travel arrangements. Counsel must support claims for reimbursement with a statement showing the date, distance, origin, and destination of travel. Counsel should contact NTS before driving to determine then-current government airfare rates.
- H. Hotel Telephone and Internet.** Hotel telephone charges will be reimbursed for up to

\$5.00 per day. Hotel internet charges will be reimbursed for up to \$10.00 per day. Counsel seeking reimbursement for any additional charges must submit a brief statement explaining why the charge is incidental to representational duties.

- I. **Non-Reimbursable Travel Expenses.** Personal items (e.g., alcoholic beverages, in-room movies) and charges exceeding current government rates are not reimbursable.

## X. Reimbursement of Other Expenses - General Rules.

- A. **Itemization.** Counsel must itemize by date and charge claims for other expenses in eVoucher using the “Expenses” tab.

- B. **Prior Approval for Expenses Totaling More Than \$900.00.** If single-category services (expert counsel, paralegals, law clerks, interpreters, etc.) totaling more than \$900.00 are necessary for adequate representation, counsel must obtain prior court approval to incur such costs by filing a sealed, ex parte motion explaining the need and giving the provider’s qualifications and the rate to be charged.

Time for service providers must be tracked in tenths of hours and described in the same manner as attorney time (i.e., with specificity). If the total services exceed \$2,600.00, counsel must also obtain a court order certifying the expense as “necessary to provide fair compensation for services of an unusual character or duration.” Reimbursement for charges related to service providers should be detailed on the “other expenses” portion of counsel’s own CJA 20 voucher.

All charges are evaluated under the reasonableness standard. Failure to obtain prior approval may limit reimbursement for such expenses to \$900.00.

- C. **Supporting Documentation for Other Expenses.** With certain exceptions (see commercial copying and computer-assisted legal research), counsel need only provide itemized receipts or copy logs to support single-event other expense charges exceeding \$50.00 (e.g., in-house copying of final opening brief and all attachments). Credit card slips and credit card statements lack sufficient detail to permit approval of expenses as reasonable and reimbursable. Expenses not properly documented may be disallowed.
- D. **Copying and Binding.** Reimbursement for in-house copying is limited to the actual per-page cost not to exceed 20¢ per page. If a higher rate is sought, counsel must submit a statement justifying the higher rate. If counsel incurs single event in-house copying expenses exceeding \$50.00 (e.g., in-house copying of final opening brief and all

attachments), then logs or other information should be provided identifying what was copied, how many copies were made, and the rate. Expenses not properly documented may be disallowed. An itemized invoice must support all claims for commercial copying and binding services. Credit card slips and credit card statements lack sufficient detail to permit approval of expenses as reasonable and reimbursable. Expenses not properly documented may be disallowed. Commercial copying charges to prepare 40 copies of a petition for certiorari in booklet format will not be reimbursed. This requirement may be waived upon properly filing a motion to proceed *in forma pauperis*, see S. Ct. Rules 12, 33.2 and 39.

- E. Long-Distance Telephone Calls.** Itemized statements must be submitted to support claims for long-distance telephone calls that total more than \$50.00. The supporting documentation must contain each call's date, cost, and recipient.
- F. Postage/Expedited Mail/Courier.** Single-event postage, expedited mail, and courier expenses exceeding \$50.00 (e.g., FedEx charge for delivery of opening brief and copies) must be supported by itemized receipts. The receipt must include the date, nature of service, and cost. Absent extraordinary circumstances, expedited mail (e.g., FedEx, Priority Mail) and courier charges will be reimbursed only for delivery of principal briefs, a petition for rehearing en banc, or a petition for writ of certiorari.
- G. Legal Research Services by Law Student, Law Clerk, or Paralegal.** Time incurred by these individuals is claimed as an “other expense” on counsel’s voucher. Claims for the actual cost of legal research by a qualified law student, law clerk, legal assistant, or paralegal must be itemized. Descriptions of time spent by such personnel must be tracked in tenths of hours and be sufficiently descriptive to allow the court to apply the “reasonably necessary” standard. Time not properly documented may be disallowed. If the amount claimed for this service will total more than \$900.00, counsel must seek prior court approval and the order approving the services must be attached to the voucher seeking payment for the services.
- H. Computer Assisted Legal Research (CALR) (e.g., Westlaw/Lexis).** If charges for computer-assisted legal research total more than \$50.00, a .pdf copy of each vendor bill itemized by date must be included with counsel’s voucher. Counsel should include a brief statement of justification. Counsel must seek prior court approval for services totaling more than \$900.00. Counsel should request reimbursement for CALR as an “other expense” on their CJA 20.
- I. Interpreter/Translating Services.** Time incurred by these individuals may be claimed

as an “other expense” on counsel’s CJA 20 voucher. Descriptions of time spent by such personnel must be tracked in tenths of hours and be sufficiently descriptive to allow the court to apply the “reasonably necessary” standard. Time not properly documented may be disallowed. Counsel must obtain prior court approval for services totaling more than \$900.00 and attach the court’s order approving the services to the voucher seeking payment for the services.

**J. Other Expenses of a Personal Nature for Individual Represented.** The cost of items of a personal nature purchased for or on behalf of the person represented is not reimbursable.

**K. Expenses Related to District Court Matters or Matters Unrelated to Appeal.** Expenses related to district court matters, or otherwise unrelated to appellate representation, even if incidental to arrest, incarceration, or remand, are not reimbursable on an appellate voucher. Reimbursement for preparation and submission of preliminary appellate pleadings (e.g., notice of appeal, designation of record, transcript order form) may be claimed on the appellate voucher but not if reimbursed on the district court voucher.

**L. Filing Fees, Court Admission Fees, and PACER Charges.** Filing fees and court admission fees are not reimbursable. This includes filing fees related to a petition for certiorari because such fees may be waived upon proper filing of a motion to proceed in forma pauperis, see S. Ct. Rules 12, 33.2, and 39. PACER charges are not reimbursable because, upon proper application, CJA counsel is entitled to a free PACER account for use in CJA cases only.

**M. Transcript Fees.** The cost of court-authorized transcripts should be claimed by the court reporter or reporting service on a properly completed CJA 24 form. CJA Counsel should seek guidance from the Clerk’s Office regarding the submission of a CJA 24 Authorization and/or voucher for transcripts. If counsel elects to pay for transcripts, counsel should likewise seek reimbursement using a CJA 24 form, not a CJA 20 form.

## **XI. General Information**

**A. Public Disclosure.** CJA 20 vouchers filed by counsel may be subject to public disclosure unless disclosure should be limited based upon: (1) protection of any person’s Fifth Amendment right against self-incrimination; (2) protection of the defendant’s Sixth Amendment right to effective assistance of counsel; (3) the defendant’s attorney-client privilege; (4) the work-product privilege of defendant’s

counsel; (5) the safety of any person; or (6) any other interest that justice may require. **If counsel wishes to request redaction or non-disclosure of any portion of the voucher based upon one of these interests, counsel should seek such relief by motion (filed via CM/ECF) at the time the CJA 20 voucher is submitted.** Absent such a motion, the face of the voucher will be made available to the public upon request.

- B. Counsel's Responsibility to Keep Contact and Billing Information Up to Date.** Counsel must keep their contact and billing information up to date in eVoucher. **IF YOU MOVE, CHANGE FIRMS, OR OTHERWISE CHANGE THE ASSIGNMENT OF TAX CONSEQUENCES FOR CJA PAYMENTS, YOU ARE RESPONSIBLE FOR UPDATING YOUR PROFILE AND BILLING INFORMATION IN eVOUCHER.**
- C. Additional Resources.** Counsel is encouraged to review the court's website to obtain current forms, rates, and general CJA information. The CJA portion of the U.S. Courts' website and the [CJA Panel Information on the Defender Services website](#) may also provide substantial assistance. You should also carefully review the [Criminal Justice Act Guidelines](#) and the Tenth Circuit's Criminal Justice Act Plan found as Addendum I to the Local Rules.
- D. Contacts.** For substantive questions regarding the content of a voucher, required documentation, and related issues, contact a CJA Case Analyst at [CJA\\_Vouchers@ca10.uscourts.gov](mailto:CJA_Vouchers@ca10.uscourts.gov) or 303.844.5306. **For eVoucher Technical Support**, please contact the Clerk's Office at (303) 844-3157 or [eVoucher@ca10.uscourts.gov](mailto:eVoucher@ca10.uscourts.gov).

## **XII. Retain CJA Billing Records for Three Years.**

Counsel must retain CJA billing records for three years after approval of the voucher.

## **XIII. Note to Counsel.**

This letter addresses only subjects of repeated error or frequent inquiry and is not inclusive.