



# United States District Court EASTERN DISTRICT *of* TENNESSEE

## **CJA Billing Guidelines**

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### **Introduction**

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 Eastern District of Tennessee. To facilitate this process, these billing 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. Appointed 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 these billing guidelines, it is the obligation of each CJA attorney to comply with *The Judiciary Guidelines for Administering the CJA and Related Statutes* (“CJA Guidelines”), applicable local rules, court orders, and notices. 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.

CJA vouchers submitted by appointed attorneys for payment are reviewed to determine whether the services rendered and expenses incurred are in accordance with the policies, requirements, practices and procedures of the judiciary. Vouchers are processed, reviewed, and audited by the Clerk’s Office—first by a processor and then by the staff attorney—before the vouchers are forwarded to the judge for review. Voucher review by the staff attorney and judge includes an assessment of whether or not the fees and expenses are reasonable for the activity or task involved.

The following billing guidelines are intended to provide CJA panel members with suggestions for increasing efficiency and maximizing the productive use of time, and to help facilitate a quick review process by the Clerk’s Office and Court. Many of the suggestions and tips will be familiar to panel attorneys, but others may be new. Failure to comply with these guidelines may result in a delay in processing of the voucher, a rejection of the voucher back to the attorney for more information, or in some cases, nonpayment of a time or expense claim. Accordingly, it is in the attorney’s best interest to become familiar with these guidelines and to abide by these guidelines when preparing vouchers.

## I. Record Keeping

- (a) Keep accurate, contemporaneous time records.
- (b) Generally, discrete tasks should be entered separately, in chronological order, with a brief correlating description. When applicable, however, tasks should be aggregated into a single block of time pursuant to the following guidelines:
  - (1) Multiple tasks performed in one day requiring less than .1 hour each to complete must be quantified together at no more than the total actual time expended on all tasks, or quantified with another task on the same day. For example, if an attorney reviews four separate documents, and takes two minutes to review each document, the attorney should aggregate the time spent reviewing the documents into a single entry and claim .2 as time spent reviewing the documents.
  - (2) If the activities fall into multiple categories, the .1 hour entry may be entered into any applicable category, although one task each day of less than .1 hour may be claimed at .1 hour if no other service is claimed for that day with which it can be quantified.
  - (3) Counsel should aggregate time spent during the day reading substantive documents attached to a Notice of Electronic Filing (NEF) to ensure that double billing of time does not occur.
- (c) Time is billed in tenths of an hour. For your convenience, the following time conversion table is provided:

<b>Minutes</b>	<b>Bill As</b>
0-6	.1
7-12	.2
13-18	.3
19-24	.4
25-30	.5
31-36	.6
37-42	.7
43-48	.8
49-52	.9
53-60	1.0

- (d) Entries must be sufficiently detailed and provide adequate justification.
- (e) Attorneys may only claim time for work that is originally prepared in the case in which the voucher is submitted.
- (f) If an attorney claims compensation for an amount that exceeds the maximum statutory rate, the attorney must waive payment for the excess or file a CJA Form 26. *See CJA Guidelines* § 230.30. To waive payment for the excess, the attorney must include a note on the voucher in the public/attorney note field including the attorney's name and the date. For an excess fee claim, the CJA Form 26 must be saved as a .pdf document and attached under the document tab to the CJA 20 voucher.
- (g) Any compensation exceeding the statutory maximums, exclusive of reimbursement for reasonable expenses, must be approved by the Sixth Circuit Court of Appeals after approval by this Court.

- (h) Contemporaneous time and attendance records, as well as expense records, must be maintained for three years after approval of the final voucher. *See CJA Guidelines* § 230.76.
- (i) Vouchers should be submitted no later than 45 days after the final disposition of the case. *See CJA Guidelines* § 230.13. If a voucher has not been submitted within 45 days, the Court will send a notice through CM/ECF.<sup>1</sup> The notice provides the attorney with an additional period of seven days within which to submit the voucher. The Court may reject any voucher that lacks good cause for its late submission.
- (j) When an attorney is substituted by another panel attorney, the substituted attorney should prepare a voucher for the work performed through the date of substitution.<sup>2</sup> The substituted attorney must *retain the voucher in the eVoucher active document box* until the conclusion of the case and/or the Court requests submission of the voucher. Any substitute attorney vouchers submitted before the case is concluded will be rejected and returned to the attorney with instructions to retain the voucher until conclusion of the case.
- (k) In substituted attorney cases, the combined total of vouchers for all attorneys will likely exceed the overall case cap. It is, therefore, a requirement that each attorney prepare a CJA 26 form, saved in .pdf format, and attach it under the document tab to the CJA 20 voucher.

## **II. Actual and Reasonable Expenses**

- (a) Only reasonable work actually performed, and reasonable expenses actually accrued, may be claimed.
- (b) Billing judgment should be exercised as to the reasonableness of all compensation claimed.
- (c) Time spent on overlapping services in multiple cases (*e.g.*, research, court appearances, waiting time) must be allocated appropriately among the cases and the total amount claimed may not exceed the actual time expended. The attorney should note in the description how the time was allocated.
- (d) The following expenses are not reimbursable and should not be claimed:
  - (1) General office overhead, such as rent, telephone services, and secretarial services. General office overhead includes general office expenses that would normally be reflected in the fee charged to a client. The statutory hourly rate is intended to include compensation for these general office expenses. *See CJA Guidelines* § 230.66.10.
  - (2) Expenses for items of a personal nature for the client. *See CJA Guidelines* § 230.66.20.
  - (3) The cost of printing briefs, although the cost of photocopying is reimbursable. *See CJA Guidelines* § 230.66.40.
  - (4) Fact witness fees, witness travel costs, and expenses for service of subpoenas. These expenses are paid by the Department of Justice pursuant to Fed. R. Crim. P. 17, and 28 U.S.C. § 1825. Contact the United States Marshal for payment

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<sup>1</sup> Failure of the Court to send the notice to counsel will not excuse a late submission.

<sup>2</sup> If the substituted attorney is a retained attorney or a federal defender, the original panel attorney may submit his or her voucher and does not have to retain the voucher until the conclusion of the case or await the Court's request for submission.

procedures. *See CJA Guidelines* § 230.66.50. For more information on fact witness vouchers, visit [http://www.tned.uscourts.gov/docs/cja\\_fact\\_witness.pdf](http://www.tned.uscourts.gov/docs/cja_fact_witness.pdf).

- (5) Taxes paid on attorney compensation, whether based on income, sales, or gross receipts. *See CJA Guidelines* § 230.66.60.
- (e) For preparation of “boiler-plate” notices and motions that do not require legal research, only time *newly* expended in creating the document may be claimed. Examples of such “boiler-plate” notices and motions include motions to seal, motions to continue, notices of change of plea hearing, or any other routine filing which involve modifying only the date, case caption, and/or case number or the use of a template
- (f) Claims for conferences with family representatives must briefly state the subject of the communication.
- (g) Absent extraordinary circumstances, billable hours in a day should not exceed ten hours, unless in trial.
- (h) Justification should be provided for any time or expense claimed that exceeds what would normally be presumed adequate for the task or expense.
- (i) When time or an expense is to be split between multiple clients, the time or expense must be prorated between the multiple clients. The attorney should indicate in the time and expense entries how the claims are being prorated and include the case number(s)/defendant name(s).

### III. Description of Tasks

- (a) Descriptions of services must be sufficiently detailed to understand the service and to evaluate the reasonableness of the time claim without violating the canons of ethics or disclosing attorney work product.
- (b) Claims for **document review** must state specifically the nature of the material reviewed and the number of pages. Attorneys are expected to review discovery and other documents at a rate of fifty pages or more per hour. If discovery review takes significantly longer, a brief justification should be provided. Time claimed for reviewing documents should be aggregated pursuant to Section I(b).
- (c) Counsel should not bill for items ordinarily considered a clerical function. For example, counsel should not bill for downloading, opening, renaming, saving, printing, and/or forwarding a Notice of Electronic Filing (NEF).
- (d) Claims for reviewing NEFs and associated documents must include the document/pleading number and a brief description of the item reviewed. An attorney cannot claim time for reviewing the attorney’s own NEFs. Time claimed for reviewing NEFs and associated documents should be aggregated pursuant to Section I(b).
- (e) Claims for **legal research** must briefly state the issue researched. Counsel will be reimbursed for reasonable and necessary research time, although each CJA attorney is expected to have basic knowledge of the Federal Criminal Code, Rules of Criminal Procedure, Local Rules and Sentencing Guidelines.

#### **IV. In-Court and Out-of-Court Time**

- (a) In-court time is to be calculated from the time the hearing actually began until the time the hearing actually ended and will be compared to minute entries.
- (b) Time spent meeting with the defendant, witness, or Assistant U. S. Attorney before or after a hearing may be claimed as out-of-court time.
- (c) Reasonable time spent waiting for a hearing to begin will be compensated where it is unforeseen or unavoidable, but such time should be reported as out-of-court time.
- (d) Time spent in common, either in-court or out-of-court, on more than one CJA representation must be prorated appropriately among the representations. Time spent in common includes work performed simultaneously or within the same unit of time for more than one representation.

#### **V. Expenses Generally**

- (a) Provide a brief description justifying all expenses, including postage and copying expenses. For example, when claiming reimbursement for postage for mailing a letter to your client, state “postage for letter mailed to client,” or when claiming reimbursement for copies, state “copies of motion to provide to client.” In addition, any claim for photocopying must clearly indicate the date, the number of pages copied, and the actual cost per page.
- (b) Unless otherwise specified, copying charges will be presumed to be in-house.
- (c) The presumptive maximum charge for internal faxing and copying is \$0.10 per page.
- (d) If an external source is used for copying or faxing, state the source and provide a brief justification. If a receipt is available, attach the receipt under the document tab.
- (e) Proof of payment is required for all travel expenses and all itemized expenses in excess of \$50.00. This includes a receipt, copy of the front and back of a cancelled check, or credit card statement. An invoice is not considered proof of payment.
- (f) PACER fees are not compensable because PACER fees are not charged to attorneys providing services authorized by the Criminal Justice Act, 18 U.S.C. § 3006A.
- (g) The cost of computer-assisted legal research services such as Lexis or Westlaw may be allowed as a reimbursable out-of-pocket expense provided that the amount claimed is reasonable. Whenever charges for computer-assisted legal research are incurred, counsel must attach to the compensation voucher a copy of the bill and receipt for the use of the legal research services or an explanation of the precise basis of the charge (*e.g.*, indicating the extent to which it was derived by proration of monthly charges, or by charges identifiable to the specific case).

## VI. Travel Expenses

- (a) Only actual travel time and miles traveled may be claimed. The Court relies on internet mapping sites to determine appropriate time and mileage. Variables such as excessive congestion/construction must be documented to be considered. Travel time will be measured as driving time only. If you walk to the courthouse, you must state this in your voucher entry.
- (b) Travel time and mileage are based on the attorney's office address as registered with the Court's CM/ECF system. If the attorney is traveling to/from any other address, the complete alternative address must be noted in the voucher entries.
- (c) Travel is computed from the attorney's office, not home, unless home is the office. However, if travel is of a shorter distance from the home, time may be computed from the home as long as the attorney provides notation of such in the time and expense entry.
- (d) If an attorney does not intend to claim mileage, it should be noted both in the travel service line entry and also stated in the "public/attorney note" field on the confirmation page.
- (e) Travel by privately owned automobile will be reimbursed at the mileage rate currently prescribed for federal judiciary employees who use a private automobile to conduct official business. The rates are set by the General Services Administration (GSA) and are intended to cover gas as well as wear and tear expenses. The CJA eVoucher program computes the appropriate mileage rate based on the date of travel. The current and past CJA mileage rates are listed at [www.tned.uscourts.gov/cja.php](http://www.tned.uscourts.gov/cja.php).
- (f) When travel time is to be split between multiple clients, time and expenses must be prorated between the multiple clients. The attorney should indicate in the time and expense entries how the claims are being prorated and include the case number/defendant name.
- (g) Receipts must accompany all claims for non-mileage related travel expenses over \$50, including parking, tolls, taxi, airfare, lodging and meals.
- (h) The attorney must obtain advanced authorization for travel outside of the district, or must demonstrate that the travel was necessary and that prior authorization could not be obtained. Advanced authorization is not required for travel outside of the district to meet with a client housed in a facility outside of the Eastern District of Tennessee.
- (i) When traveling under CJA authorization, attorneys are subject to the same limitations and regulations as a judiciary employee. Actual expenses while on CJA travel will be reimbursed only up to the allowable GSA per diem rate. For information on per diem rates please visit the GSA website at [www.gsa.gov](http://www.gsa.gov).

## VII. Expert and Non-Expert Services

- (a) Attorneys may request authorization to obtain investigative, expert and other services necessary for adequate representation.
- (b) Services may include, but are not necessarily limited to: investigators; psychiatrists; psychologists; reporters; interpreters; computer systems and automation litigation support personnel and experts; paralegals and legal assistants, including law students; neurologists; and laboratory experts in areas of ballistics, fingerprinting and handwriting.
- (c) The total cost of services obtained without prior authorization may not exceed \$800. (*See CJA Guidelines* § 310.20.30). Costs of services exceeding the presumptive hourly rates for experts outlined in the Helpful Hints and Tips will not be approved without prior authorization from the Court. Additionally, costs paid to “sentencing guideline experts” will not be approved.
- (d) For services exceeding \$800, but less than \$2,500, prior authorization must be obtained from the judge, unless counsel meets the exigency requirements of *CJA Guidelines* § 3006A(e)(2)(B).
- (e) For services exceeding \$2,500, prior approval must be obtained from the presiding judge and the Chief Judge of the Sixth Circuit Court of Appeals (or designee). For such requests, the attorney will complete and submit a new AUTH for the amount being requested and attach the previously approved AUTH and an Appendix 3A under the documents tab to the new AUTH.
- (f) Reimbursement for expert or other services is made through completion of a CJA 21 form.

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