



ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

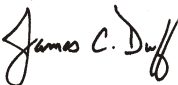
JAMES C. DUFF
Director

WASHINGTON, D.C. 20544

December 29, 2009

MEMORANDUM

To: Judges, United States Courts of Appeals
Judges, United States District Courts
United States Magistrate Judges
Circuit Executives
Federal Public/Community Defenders
District Court Executives
Clerks, United States Courts of Appeals
Clerks, United States District Courts
Senior Staff Attorneys
Chief Preargument/Conference Attorneys

From: James C. Duff 

RE: IMPLEMENTATION OF HOURLY RATE AND CASE MAXIMUM INCREASES FOR
CRIMINAL JUSTICE ACT PANEL ATTORNEYS (**IMPORTANT INFORMATION**)

Congress recently passed, and the President signed into law on December 16, 2009, the Consolidated Appropriations Act of 2010 (Pub. L. No. 111-117), the spending measure which includes fiscal year 2010 funding for the Judiciary. As detailed below, (1) the Congress authorized and provided funds to increase the capital and non-capital hourly rates for Criminal Justice Act (CJA) private "panel" attorneys; and (2) the change in the non-capital hourly rate results in an adjustment to the attorney case compensation maximum amounts.

INCREASES IN CJA PANEL ATTORNEY HOURLY RATES

Congress authorized and provided funds to raise the non-capital hourly panel attorney compensation rate from \$110 to \$125, and the maximum hourly capital rate from \$175 to \$178 (for federal capital prosecutions and capital post-conviction proceedings). These rates apply to attorneys appointed to represent eligible persons under the CJA, 18 U.S.C. § 3006A, and the Antiterrorism and Effective Death Penalty Act of 1996, codified in part in 18 U.S.C. § 3599.

The new hourly compensation rates apply to work performed on or after January 1, 2010. Where the appointment of counsel occurred before this effective date, the new compensation rates apply to that portion of services provided on or after January 1, 2010.

INCREASES IN THE PANEL ATTORNEY CASE COMPENSATION MAXIMUMS

As explained in my memorandum of October 16, 2008, the “Judicial Administration and Technical Amendments Act of 2008,” Pub. L. No. 110-406, amended the CJA to raise the case compensation maximums applicable to appointed panel attorneys in non-capital representations “simultaneously” with aggregate percentage increases in the maximum non-capital hourly compensation rate. The case compensation maximums resulting from the increase in the hourly rate to \$125 include:

\$9,700 for felonies at the trial court level and \$6,900 for appeal (previously \$8,600/\$6,100);

\$2,800 for misdemeanors at the trial court level and \$6,900 for appeal (previously \$2,400/\$6,100);

\$9,700 for non-capital post-conviction proceedings under 18 U.S.C. §§ 2241, 2254 or 2255 and \$6,900 for appeal (previously \$8,600/\$6,100);

\$2,100 for most other non-capital representations and \$2,100 for appeal (previously \$1,800/\$1,800).

The new case compensation maximums apply to a voucher submitted by appointed counsel if that person furnished any CJA-compensable work on or after January 1, 2010. The former case compensation maximums apply to a voucher submitted by appointed counsel if that person’s CJA-compensable work on the representation was completed **before January 1, 2010.**

The charts, [Hourly Rates for CJA Panel Attorneys](#) and [Waivable Case Compensation Maximums for Non-Capital Cases](#), indicate the new hourly rates and case compensation maximums. (Panel attorneys can access these [charts](#) at www.fd.org.) The Guidelines for the Administration of the Criminal Justice Act and Related Statutes (CJA Guidelines), Volume 7, *Guide to Judiciary Policies and Procedures* is in the process of being revised and soon will also reflect the new amounts.

The CJA payment system signals the case compensation maximum based on the date the voucher is submitted rather than the dates of service, and therefore courts must manually review the vouchers submitted by appointed counsel in non-capital representations ([CJA 20](#): Appointment and Authority to Pay Court Appointed Counsel) to determine which case compensation maximum governs. Instructions for ensuring that the proper maximum is utilized are attached.

Questions concerning the CJA hourly rates or case compensation maximums may be directed to the Office of Defender Services, Legal and Policy Branch Duty Attorney, on (202) 502-3030, or via email at ods_lpb@ao.uscourts.gov.

Attachment

cc: CJA Panel Attorney District Representatives
CJA Supervising/Circuit Case-Budgeting Attorneys

Instructions to Determine the Applicable Case Compensation Maximums for Panel Attorneys Under the Criminal Justice Act

With the increase in the Criminal Justice Act (CJA) panel attorney hourly rate, effective January 1, 2010, the case compensation maximums for panel attorneys “simultaneously” increase under subparagraph (d)(2) of the CJA, 18 U.S.C. § 3006A. Courts must determine whether compensation claims submitted on a CJA Form 20 (Appointment and Authority to Pay Court Appointed Counsel) are governed by the new maximums or by the former maximums.

The key rules are:

The new case compensation maximums apply to appointed counsel for a representation if that attorney furnished any CJA-compensable work on or after January 1, 2010.

The former case compensation maximums apply to appointed counsel for a representation if that attorney’s work was completed before January 1, 2010.

The person responsible for reviewing, processing, or approving claims should look at Item 19 (“Certification of Attorney/Payee for the Period of Service”) of the CJA Form 20 to determine whether the panel attorney furnished any CJA-compensable work on or after January 1, 2010. If so, the new case compensation maximums apply to the attorney’s voucher on the representation: felony and non-capital habeas corpus \$9,700, misdemeanor \$2,800, appeal \$6,900, 18 U.S.C. § 4106A parole proceeding \$2,100/appeal \$6,900, and other representations \$2,100/appeal \$2,100. (The category “other representations” includes crack cocaine retroactive amendment representations – representation types CK and AA.) If, on the other hand, all services were performed before January 1, 2010, the former case compensation maximums apply: felony \$8,600, misdemeanor \$2,400, appeal \$6,100, 18 U.S.C. § 4106A parole proceeding \$1,800/appeal \$6,100, and other representations \$1,800/appeal \$1,800. ***(PLEASE NOTE: If the voucher is entered into the CJA payment system after January 1, 2010, the warning message indicating that circuit approval is required will not activate at the former case maximum levels, even when they apply. The warning messages are only generated based on the new case compensation maximums.)***