2013 MEMPHIS/MID-SOUTH CHAPTER OF THE FEDERAL BAR ASSOCIATION ANNUAL SEMINAR

CJA Panel Attorney CLE Session

Friday, October 4, 2013
University of Memphis Law School
1 North Front Street
Memphis, TN 38103
TOPICS BEING COVERED TODAY

✓ Update on Judiciary Shutdown
✓ Update on Development of eCJA
✓ CJA Case Assignment Process
✓ Current Appointment Statistics
✓ Panel Reappointment Process
✓ CJA Voucher Preparation
✓ Court Website Information
✔ Update on Judiciary Shutdown

Phase I Shutdown Impact on Federal Court Operations
✓ Update on Judiciary Shutdown

Phase II Shutdown Impact on Federal Court Operations
✓ Update on Judiciary Shutdown

Phase I and II Shutdown
Impact on CJA Attorneys

REDUCED HOURLY RATES FOR PANEL ATTORNEYS
✓ Update on Judiciary Shutdown

Phase I and II Shutdown
Impact on CJA Attorneys

SUBSTANTIALLY DELAYED VOUCHER PAYMENTS
✔ Update on Judiciary Shutdown

Phase I and II Shutdown
Impact on CJA Attorneys

DELAYED PAYMENTS TO CJA VENDORS AND EXPERTS
✓ Update on Judiciary Shutdown

Phase I and II Shutdown Impact on CJA Attorneys
✓ Update on Judiciary Shutdown

Phase I and II Shutdown
Impact on CJA Attorneys

$21 Million “Budget Anomaly”
Update on Development of eCJA
✓ Update on Development of eCJA
✓ Update on Development of eCJA
In July 2005 I was asked to develop a computerized system that would overcome the problems that then existed in the CJA case assignment process.

The problems were:
- The assignment process was manual and undocumented
- The assignments were unevenly dispersed across the Panel
- There was no way to extract statistical data or reports

We developed an automated process using an algorithm that maintains randomness yet rebalances assignment activity so that every Panel Attorney over time gets an equal number of contacts and potential case assignments.
CJA Case Assignment Process

• 2 Panels
  – Memphis Division (37 Attorneys as of 05/28/2013)
  – Jackson Division (17 Attorneys as of 05/28/2013)

• Contact Methods by Court Staff
  – Phone
    • 1st – Office
    • 2nd – Cell
    • 3rd – Designee

• Assignment **MUST** have immediate accept or decline, otherwise a “No Answer” will result in a one-point assessment in the system.
CJA Case Assignment Process

- Weighted System of Calling, where program logic continuously self-balances the number of calls across all panel attorneys
  - Attorney with lowest weighted call load will be called first
  - If one or more attorneys are “tied” at the same weighted call history, the system uses random selection to pick the next attorney to call
  - Every call transaction is maintained in the database
  - Randomness is inherent to this system
Weights (How points are assigned based on results of actual contacts)

- **Criminal Case**

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<thead>
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<th>Description</th>
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<tr>
<td>3</td>
<td>Accept, Decline, or Judicial Appointment</td>
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<tr>
<td>1</td>
<td>Unable to reach Attorney</td>
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<tr>
<td>0</td>
<td>Case Conflict – Unable to Accept</td>
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- **Post Judgment Matters** (Including resentencing)

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Current Appointment Statistics

EASTERN DIVISION
ANALYSIS OF TOTAL ASSIGNMENTS
FOR AUGUST 2013

- CJA Telephone Assignments 50%
- Judicial Appointments 50%

Judicial Appointments  CJA Telephone Assignments
☑ Current Appointment Statistics

EASTERN DIVISION
CJA PANEL ANALYSIS OF CALLS
FOR AUGUST 2013

Cases Accepted: 57%
No Answer: 43%
Cases Refused: 0%
Case Conflicts: 0%
Resentencing: 0%

Current Appointment Statistics
CJA ASSIGNMENTS AND FAILED ASSIGNMENTS
JANUARY 1, 2005 THROUGH AUGUST 31, 2013
EASTERN DIVISION
Current Appointment Statistics

WESTERN DIVISION
CJA PANEL ANALYSIS OF CALLS
FOR AUGUST 2013

- Cases Accepted: 78%
- No Answer: 0%
- Cases Refused: 0%
- Case Conflicts: 19%
- Resentencing: 0%
CJA ASSIGNMENTS AND FAILED ASSIGNMENTS
JANUARY 1, 2005 THROUGH AUGUST 31, 2013
WESTERN DIVISION
✓ Panel Reappointment Process
Panel Reappointment Process

- Panel Attorneys are evaluated for reappointment every three years in three “waves”. Currently, we are in the midst of a second evaluation for “Wave 1” Attorneys (generally, our longest tenured CJA Panel Members).
Review of CJA Voucher Process and Some Common Errors to Avoid
CJA Panel Portal

Login Name: 
Password: 

News and Announcements

8/22/2013
Reduction in CJA Panel Hourly Rates
The Executive Committee of the Judicial Conference of the United States has implemented a temporary emergency $15 reduction in hour rates of compensation for CJA panel attorneys. This reduction applies to work performed between September 1, 2013, and September 30, 2014. Administrative Office Memo, Hourly Rates and Mileage

1/16/2013
New Mileage Rate
CJA – Statutory Limitations

• Reduced Hourly Panel Attorney Compensation Rates
• Attorney Case Compensation Maximums
• Payment Limits for Other Service Providers
  – Prior approval for costs exceeding $800
  – Other compensation limits
    • Non-capital: $2400, excluding expenses (case total for all providers, not including transcripts)
    • Capital: $7500, fees and expenses (case total for all providers, not including transcripts)
Common Issues

- Reimbursable Expenses
- Non Reimbursable Expenses
- Advance Approvals
- Policy when Limits are Exceeded
- Case Budgeting
- Interim Payments
- Supporting Documentation
- Service Providers
Reimbursable Expenses for Attorney

• Reimbursement is authorized for expenses reasonably incurred for the representation
• Claim on Form CJA 20 or Form CJA 30
• Reimbursable out-of-pocket expenses:
  – Computer-assisted legal research
  – Travel expenses
  – Telephone toll calls
  – Copying, postage, and messenger services
  – Court-authorized transcripts (Form CJA 24)
Non-Reimbursable Expenses

• General office overhead is not reimbursable:
  – Rent
  – Telephone service
  – Secretarial expenses

• CJA attorneys are expected to use their own office resources, including secretarial help, for work on CJA cases.
Advance Approvals

Advance approvals are required:

• To claim compensation for work of lawyers who are neither appointed nor a partner or associate of the appointed attorney
• For interim payment of compensation and/or expenses for service providers or attorney (attorney must motion court)
• Service Providers vouchers in excess of $800 (or >$2,400 for all providers)
Excess Compensation

Payments that exceed the attorney case compensation limit may be authorized when:

• Certified by the presiding judge and
• Approved by the chief judge of the circuit (or judge delegate) as:
  – Necessary to provide fair compensation
  – For extended or complex representation.
Case Budgeting

• Judicial Conference policy encourages case budgeting for:
  – Federal capital prosecutions
  – Capital habeas corpus representations
  – Non-capital representations extraordinary in terms of cost (>\$30,000 total)

• Counsel submits an initial budget that includes proposed costs of other services
Interim Payment Requests

• The presiding judge may arrange for interim payments for other service providers.
• The interim payment request (motion) should include:
  – length of time interim payments will be needed and
  – a justification of need.
• Chief circuit judge (or delegate) approval may be required.
• The provider submits a separate voucher for each interim payment claim and attaches prior approval (order).
Supporting Documentation for ALL vouchers

- Attach supporting documentation:
  - An itemized statement of services provided
  - An itemized statement of all expenses
  - Timesheets and worksheets
  - Itemized Receipts

- Include explanatory memoranda/justifications
  - Claims above case compensation maximum
  - Good cause for submitting voucher after 45 days
Authorization Requests for Service Providers

• The request should include:
  – Reasons for requesting service
  – Provider’s relevant experience and qualifications
  – Hourly rate requested
  – Fee arrangement, as applicable
  – Specific service and expenses to be included
  – Whether additional services/funding may be requested from/for this provider (as applicable)

• Counsel should communicate the specific terms of the approval to the service provider.
Expenses of Service Providers

- Service providers claim reimbursement for expenses reasonably incurred in performing authorized services on the Form CJA 21/31.

- Reimbursable travel expenses include reasonably incurred transportation, lodging, meals, and miscellaneous expenses.
  - Reimbursement is for actual expenses only; per diem is not authorized.
  - Some courts may require advance authorization.
Common Errors

- Incomplete voucher forms
- Incorrect hourly rates
- Incorrect mileage rates
- Mathematical errors
- Reporting of hours
- Missing authentic signatures
- Incomplete documentation of time or expenses
- Judges signature not on Voucher appointing CJA Attorney
Invoice does not indicate the quantity of pages being claimed.
Vouchers that are illegible (sloppy).
COMMON ERRORS

1. EXCESSIVE CLAIM
2. SIGNATURE OF PRESIDING JUDGE NOT ON VOUCHER
3. BOX 21 CASE DISPOSITION NOT COMPLETED
COMMON ERRORS

THERE IS NO DESCRIPTION OF SERVICES ON WORKSHEET
On-line Reference Tool (ORT)

• Location and purpose of the ORT
• Navigation and search strategies
• Type of material you will find in the ORT

http://www.uscourts.gov/uscourts/cjaort/index.html
ORT Location and Purpose

• Located on uscourts.gov and the J-NET
• Rapid access to voucher submission and processing procedures and policies
• Content conveniently organized
  – By Topics
  – By Roles
Access Content by Topics

Welcome to the National CJA Voucher Program

The purpose of the Online Reference Tool (ORT) is to provide access to information concerning the procedures and policies of the National Criminal Justice Act (CJA) Program. The information is conveniently organized and categorized by topics and roles, and is accessible through a variety of menus.

Click on preferred topic.
Use the ORT for...

- Linking to the CJA Guidelines (Volume 7, Part A), also referred to as “the Guide”
  - In-text citations
  - Link to U.S. Courts publications page
Questions Regarding Federal Practice
CJA Panel Representative
Michael Stengel
CLOSING REMARKS