

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NORTH DAKOTA**



**CJA
INFORMATION
PACKET**

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CJA PANEL REPRESENTATIVE

The CJA Panel Representative is available to provide CJA representative services for all counsel in the District of North Dakota who are appointed under the Criminal Justice Act (CJA). [CJA Plan § IV\(B\)](#).

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GENERAL INFORMATION FOR COUNSEL APPOINTED UNDER THE CRIMINAL JUSTICE ACT

Pursuant to the Criminal Justice Act (18 U.S.C. § 3006A), the judicial officers of this Court have adopted a Plan for Adequate Representation of Defendants Pursuant to the Criminal Justice Act of 1964, as amended ([CJA Plan](#)).

Counsel appointed by the Court must continue to serve until the purpose of the appointment is accomplished or until the appointment is terminated by Court order. [§ 220.20; CJA Plan § VI\(A\)](#).

In the event a defendant is convicted by guilty plea or at trial, counsel must advise the defendant of the right to appeal and of the right to counsel on appeal. If requested to do so by the defendant, counsel must file a timely notice of appeal and must continue to represent the defendant unless, or until, relieved by this Court or by the Court of Appeals. [CJA Plan § VI\(B\)](#)

Counsel must report to the Court any change in a defendant's financial status when it appears that the defendant is able to finance all or part of the representation. [§ 210.10.30; CJA Plan § VI\(C\)](#)

Counsel appointed by the Court under the Act must request payment via the web-based eVoucher System. Please refer to the [CJA eVoucher Attorney User Manual](#) for additional information and instructions for using eVoucher.

CJA ATTORNEY PAYMENT INFORMATION

Each CJA panel attorney must complete the Billing Information section in eVoucher. Each attorney is responsible for updating any changes regarding payment (i.e., change of address, change of law firm, change of name) in eVoucher.

LIMITED CJA APPOINTMENT

When the Office of the Federal Public Defender notifies the Court of a scheduling conflict that will not permit an Assistant Public Defender to attend a pretrial services interview or other pretrial matters, the Court will contact one of the CJA panel attorneys for a limited CJA appointment. Counsel are subject to the same rules and requirements as though appointed for the duration of the

case. The limited CJA appointment remains in effect until the Assistant Federal Public Defender files a notice of appearance in the case, at which point the CJA 20 voucher may be submitted via eVoucher to the clerk's office for payment. [CJA Plan § V\(I\)](#).

CASE BUDGETING

The District of North Dakota requires CJA counsel to submit a Budget Authorization and case budgeting worksheets, via eVoucher, for representations in which attorney hours are expected to exceed 300 times the prevailing CJA panel attorney non-capital hourly rate, rounded up to the nearest thousand for appointed counsel and services other than counsel for an individual CJA defendant. [§ 230.26.10](#); [CJA Plan § VII\(A\)\(2\)](#). Additional information on case budgeting and how to submit a case budget can be found in the Court's [Budget Authorization Job Aid](#).

COMPENSATION AND EXPENSES OF APPOINTED COUNSEL (CJA 20)

Pro-rating Travel, Expenses, and Attorney Time

Time spent in common on more than one case must be prorated among the cases and each case must be cross-referenced on the supporting materials to the vouchers. Time or expenses "spent in common" includes work performed simultaneously or within the same unit or time, or expenses incurred, for more than one representation (e.g. travel on behalf of more than one client or appearing in Court with more than one client). Double billing of time or expenses is prohibited. [§ 230.50](#)

Interim Payment

The presiding judge may authorize interim payment to counsel. [§ 230.73](#) Counsel must submit a completed CJA 20 via eVoucher indicating dates of service and check "Interim Payment."

Case Compensation and Hourly Rates

A full listing of Current Attorney Case Compensation Maximums is set forth in [§ 230.23.20](#). A history of case compensation maximums is set forth in [§ 230.23.30](#). A full listing of prior compensation rates is set forth in [§ 230.16](#) and [§ 630.10.10\(a\)](#).

Unless separately appointed as CJA counsel, co-counsel, or associate attorneys may not submit their own CJA claims to be compensated under the CJA. However, an appointed counsel may claim compensation for services furnished by a partner or associate or, with prior authorization by the Court, counsel who is not a partner or associate, within the maximum compensation allowed by the CJA, separately identifying the provider of each service. [§ 230.53.10 \(a\) & \(b\)](#).

Substitution of Counsel

If it becomes necessary to substitute an attorney for an attorney previously appointed in the case, the total compensation that may be paid to both attorneys appointed under the plan must not exceed the statutory maximum, unless the case involves extended or complex representation. In such cases, voucher approval may be delayed until the disposition of the case so the Court may fairly apportion the amounts between the attorneys. [§ 230.50](#)

Transcript Review

An attorney appointed to the Criminal Justice Act (CJA) is entitled to compensation under the CJA for functions performed to fulfill his or her obligations under the transcript policy, including the following:

1. traveling to gain access to the transcript, if needed;
2. reviewing a transcript to determine whether to file notice of intent to redact;
3. filing of a notice of intent to redact or a motion for an extension of time;
4. reviewing a transcript to determine the location of information to be requested to be redacted or whether to file a motion for additional redaction;
5. preparing and filing a redaction request or motion; and
6. other actions (including creating pleadings, attending hearings or other follow-up).

The attorney is also entitled to reimbursement under the CJA for the costs of obtaining a transcript for purposes of review. If a case involving a CJA representation has already been closed and the original attorney is no longer available, or if standby counsel is no longer available, new counsel may be appointed under the CJA and compensated as outlined above. In the event that the original appointed counsel is still available, but has filed a final voucher for the underlying case, the attorney may be permitted to file a supplemental voucher for compensation. [See Judicial Conference Transcript Policy.](#)

Record keeping

Appointed counsel must maintain contemporaneous time and attendance records for all work performed, including work performed by associates, partners and support staff, as well as expense records. Such records, which may be subject to audit, must be retained by counsel for three years after approval of the final voucher. [§ 230.76; CJA Plan § VII\(A\)\(6\).](#)

Out-of-Court Compensation

Compensation for time spent in reasonable and necessary travel must include only those hours actually spent in or awaiting transit. Compensable travel time begins when the attorney leaves home or office and terminates upon arrival at the destination. [§ 230.60](#)

Travel Expenses

Receipts and supporting documentation must be attached in eVoucher for ALL travel expenses. Claims for mileage expense should indicate the total number of miles and the applicable mileage rate. Transportation other than by privately owned automobile should be claimed on an actual expense basis. [§ 230.63.40](#)

Current mileage rates can be found at: <http://www.gsa.gov/portal/content/100715>

Per diem in lieu of subsistence is not allowable, since the CJA provides for reimbursement of expenses actually incurred. Therefore, counsel's expenses for meals and lodging incurred in the representation of the defendant would constitute reimbursable "out-of-pocket" expenses. In

determining whether actual expenses incurred are “reasonable,” counsel should be guided by the prevailing limitations placed upon travel and subsistence expenses of federal judiciary employees in accordance with existing government travel regulations (i.e., travel time must be 12 hours or more in one day to be reimbursed for meals). § 230.63.40 (b)&(c)

Current judiciary per diem rates: <http://www.gsa.gov/portal/category/21287>

Non-Travel Expenses

Claims for copying and facsimile expenses should indicate the number of copies and the applicable charge per copy. §§ 230.63.10 and 230.63.70

The cost of computer-assisted legal research services is a reimbursable out-of-pocket expense, provided that the amount claimed is reasonable. 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 research) must be attached to the voucher. § 230.63.30. Receipts must be attached in eVoucher for any non-travel expenses in excess of \$50.00

The following items are **NOT REIMBURSABLE** and should not be claimed on a voucher:

1. general office overhead § 230.66.10;
2. items of personal nature purchased for or on behalf of defendant (new clothes, haircut, cigarettes, candy, meals, etc.) § 230.66.20;
3. filing fees § 230.66.30;
4. printing of briefs (copying charges are reimbursable) § 230.66.40;
5. service of process (see Rule 17, Fed.R.Crim.P. & 28 U.S.C. § 1825) § 230.66.50;
6. taxes on compensation received pursuant to the CJA § 230.66.60; and
7. alcoholic beverages, entertainment, parking fines or fees for traffic violations, and personal automobile expenses. [National CJA Voucher Reference Tool - Non-Reimbursable Expenses; Judiciary Staff Travel Regulations, Guide, Vol. 19, § 410.10.](#)

Claims in Excess of Statutory Limit

Counsel claiming compensation in excess of the statutory limitation **must** attach within eVoucher a detailed memorandum or letter supporting and justifying their claim that the case was complex or extended and the excess payment is necessary to provide fair compensation. § 230.30; CJA Plan § VII(A)(4).

Completed Vouchers

Counsel must submit the completed CJA 20 voucher via eVoucher no later than 45 days after the final disposition of the case, unless good cause is shown. Copies of all supporting documents which itemize or explain the amounts shown on the CJA 20 voucher must be attached within eVoucher. § 230.13

INVESTIGATIVE, EXPERT AND OTHER SERVICES (CJA 21)

All attorneys appointed to provide representation under the Criminal Justice Act (18 U.S.C. §3006A) may request authorization under subsection (e) of the Act to obtain investigative, expert and other services necessary for adequate representation. [§ 310.10.10](#)

In addition to investigators, psychiatrists, and psychologists, services other than counsel may include but are not limited to interpreters; computer systems and automation litigation support personnel and experts; paralegals and legal assistants, including law students; neurologists and other medical experts; and laboratory experts in such areas as ballistics, fingerprinting, and handwriting. [§ 320.70.10](#)

Claims for compensation in these categories must be made on a CJA 21. Instructions for requesting authorization and payment of expert services may be found in the [CJA eVoucher Attorney User Manual](#)

The hourly rate charged for the services of paralegals, legal assistants, and other non-secretarial professional support personnel (including law students) employed by appointed counsel, must not exceed the lesser of (1) the rate paid to counsel under the CJA or (2) the rate typically charged by counsel to a fee-paying client for such services. [§§ 320.70.50; National CJA Voucher Reference Tool - Paralegals, Legal Assistants, and Other Non-Secretarial Support; CJA Plan § VII\(B\)\(1\)](#)

Please note that an indigent defendant who seeks to obtain such services at government expenses bears the burden of showing that the services are indeed “necessary” to the defense.

The request should include:

1. the reason for the services being requested,
2. the name of the provider,
3. the relevant experience and qualifications of the expert/service provider,
4. the hourly rate requested or the fee arrangement, as applicable,
5. the specific services and expenses to be included,
6. if additional services/funding may be requested from/for this provider (as applicable), and
7. any other relevant information.

[National CJA Voucher Reference Tool - Authorization and Payment for Investigative, Expert and Other Services.](#)

Counsel is permitted to obtain Investigative, Expert, and Other Services, without prior approval up to the amount listed below, not including reimbursement of expenses. When the compensation is expected to exceed the prior authorization amount, counsel must request prior authorization from the presiding judge. When the compensation is expected to exceed the prior authorization amount, counsel must request prior authorization from both the presiding judge and the chief judge of the circuit court. Failure to obtain prior authorization may result in a disallowance or reduction of any

amount claimed for compensation in excess of the maximum, unless the presiding judge finds that timely procurement of necessary service could not await prior authorization. [§ 310.20.20](#)

Case Compensation Maximums for Investigative, Expert, and Other Services	Maximum Current	Maximum Prior to 1/01/21	Approver
Without Prior Authorization	\$900	\$800	Presiding Judge
With Prior Authorization	\$2,700	\$2,600	Presiding Judge
Amounts over maximum			Circuit Chief

[§§ 310.20.10 and 310.20.30](#)

SUBPOENAS

The “Criminal Pretrial Order and Jury Trial Notice” will serve to grant in advance defendant's application for the issuance and service of subpoenas. Upon request from counsel, the clerk’s office will issue blank subpoenas, signed and imprinted with the court seal.

The subpoena must be completed by the requesting party and must contain the following:

1. case name,
2. case number, and
3. last known residential address of the party being subpoenaed (not a PO Box).

The U.S. Marshal is unable to serve the subpoena without a residential address.

Counsel must deliver the original and two copies of the completed subpoenas directly to the U.S. Marshal **for service no later than ten (10) court days before the trial**. The United States Marshal will serve the subpoenas and pay witness fees for indigent defendants in the same manner as is appropriate for government witnesses.

PAYMENT OF SUBPOENAED WITNESSES

Witnesses who have reported and have been released from the subpoena must complete a Fact Witness Voucher form (OBD-3), available from the U.S. Marshal. Counsel are responsible for assisting their witnesses in completing sections A, C, D, E, F, and G of the form. Counsel should contact the U.S. Marshal’s Office regarding questions about current reimbursement rates and required supporting documentation. Counsel must verify the claim by initialing Section H of the Fact Witness Voucher form and submit it to the clerk’s office for the completion of Sections B and H.

Witness checks are issued by the U.S. Marshal and will be mailed to the witness. If a witness will require immediate payment, counsel must notify the U.S. Marshal prior to trial. Counsel must notify a witness if trial is canceled.

TRAVEL AUTHORIZATION AND GOVERNMENT TRAVEL RATES

Attorneys and experts must obtain a Travel Authorization from the Court for all out-of-district travel, not covered by the [Blanket Travel Authorization](#), and are encouraged to obtain government rates for all travel in connection with representation pursuant to the CJA. A Travel Authorization allows attorneys and experts to obtain government travel rates. Attorneys must submit a Travel Authorization via eVoucher. Additional Information can be found in the CJA eVoucher Attorney User Manual.

REQUEST FOR TRANSCRIPT (CJA 24)

Requests for transcripts should be claimed on CJA 24. Instructions for requesting authorization and payment of transcripts may be found in the [CJA eVoucher Attorney User Manual](#). Appointed counsel should not pay for a transcript out of pocket. Transcript expenses will not be reimbursed as an expense on a CJA 20 voucher.

For additional information regarding claims for the time spent reviewing a transcript, see the section entitled "[Transcript Review](#)" under "Compensation and Expenses of Appointed Counsel (CJA 20)."