

Case Budgeting Basics & Billing Tips For CJA Panel Lawyers



Using the CJA26 to Submit Budgets • A CJA26 can also be used for case budgeting in addition to excess case compensation requests

Submit budgeting form via CJA26

• But....

WHAT IS CASE BUDGETING?

What Cases Are Budgeted?

- Capital Prosecutions and Capital Habeas cases
- Mega Cases
 - attorney hours are expected to exceed 300 hours or total expenditures are expected to exceed \$39K for appointed counsel and services other than counsel for an individual CJA defendant
- WAE has adopted the Ninth Circuit CJA Case Management and Budgeting Policy.
- You get paid for budget preparation

Why is Case Budgeting Important?

- Enhances quality of client representation
- Case budgeting is a tool to help you get the services and resources you need
- Easier to get prior approval than to make requests after the fact
- Voucher review is easier (and faster) for the Judge
- Budgeting a case improves case and time management

Contact a Case Managing Attorney (CMA)!

Kristine Fox

Blair Perilman



- Extensive Capital Case Experience
- 415.355.8985



- Extensive eDiscovery Experience
- 415.355.8982

How and When Do We Get Involved?



- •Email us _===
 - Kristine

• Blair

- kfox@ce9.uscourts.gov
- bperilman@ce9.uscourts.gov
- Alternative
- <u>cjabudgeting@ce9.uscourts.gov</u>

•Earlier the Better- to take advantage of discovery planning

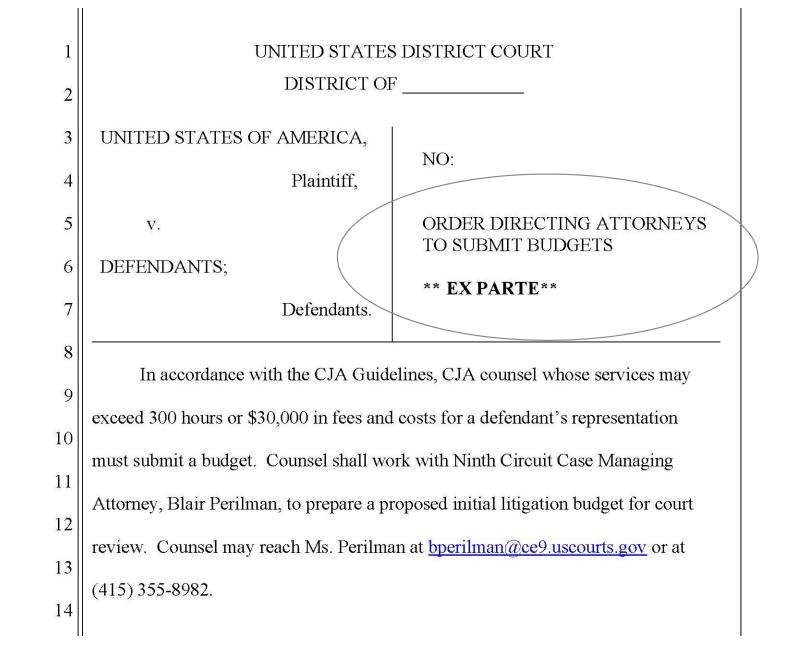
Easy 6 Step Process



- CMA Communicates with Step 2 Counsel
- Counsel Fills Out Budgeting Forms
- CMA Reviews Budget with Counsel
- Counsel Uploads Budget to eVoucher via CJA-26
- District Court and Circuit Court Review Budget

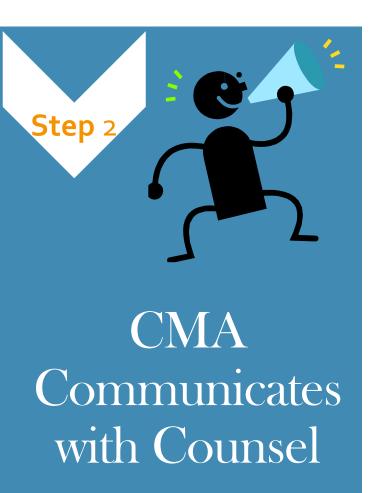


Judge Orders Budgeting...

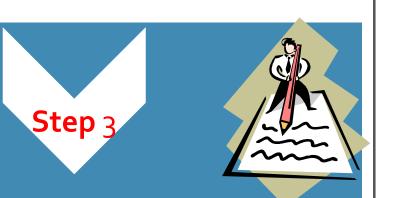


Or Counsel Requests Budgeting Counsel can reach out to a Case Managing Attorney to request budgeting on a case

 Counsel can reach out to judge or their CJA administrator to request case budgeting



- Ex Parte
- Assess Litigation Support Needs
- Identify Cost Drivers
- Coordinate Joint Efforts
- Negotiate Expert Hourly Rates
- Streamline Authorization Process



Counsel Fills Out Budgeting Form Provided by CMA

UNITED STATES DISTRICT COURT

CONFIDENTIAL EX PARTE APPLICATION FOR CJA FUNDS IN AN EXPENSIVE FELONY CASE

Case Name: United States v. Smith et al Case Number: 14-39742039 Defendant Name: TOM JONES Defendant # 01							
Date of Appointment: 7/9/2015 Budget Stage: Pretrial Amendment #: Trial Date: Sep 15, 2015							
Number of Defendants: 2 Number of Charges for the Defendant: 2 Approximate Amount of Discovery:							
Time Period Covered by this Application: From: Jul 1, 2015 To: Sep 30, 2015							
Lead Attorney: BLAIR PERILMAN Hourly Rate: \$127.00							

Please provide a concise description of the case history (fields will expand):

Defendant was charged with submitting false statements in requests for prior approval from the Directorate of Defense Trade Controls (DDTC). [Doc. 3] Defendant has asserted a public authority defense, necessitating discovery which the Government has asserted is classified. Defendant filed a motion to dismiss [Doc. 12], which was granted in part resulting in the dismissal of two charges [Doc. 68]. The Court has designated the case as complex. [Doc. 85] Trial is currently scheduled for September 15, 2015, although that trial date will likely not be met in light of the Government's assertion of the state secrets privilege and the need for counsel to obtain security clearances to review certain material.

Please provide a concise description of facts, procedures, issues that are unusual or time-consuming in this case or for this defendant:

Since the time Defendant asserted a public authority defense, Defendant through counsel has sought the disclosure of documents to establish that defense, including filing a motion to compel discovery. [Doc. 55] The court granted that motion in part. [Doc. 63] Because the discovery ordered therein is classified, the Court has been required to implement procedures pursuant to the Classified Information Procedures Act. This has required ex parte briefing on the defense discovery needs and that counsel obtain security clearances, as well as occasioning significant delay while the Government has participated in its own ex parte hearings with the Court.

In addition to the briefing and hearings occasioned by the fact that this case involves classified information, the subject matter of this case--covert arms transfers--requires the dedication of additional time by counsel to obtain the necessary expertise, as well as to retain the necessary expert and percipient witnesses. In order to obtain such witnesses, Defendant must submit subpoenas to federal agencies such as the CIA, Department of Defense, and State Department, requiring compliance with regulations promulgated under Touhy v. Ragen. Toot Your Horn! • Explain how you are sharing resources

- State if you negotiated a lower rate or a travel rate
- Describe any ways you are saving money
- Help develop a reputation as a fiscally responsible attorney

UNITED STATES DISTRICT COURT

CONFIDENTIAL EX PARTE APPLICATION FOR CJA FUNDS IN AN EXPENSIVE FELONY CASE

Case Name: United States v. Smith et al.

Case Number: 14-39742039

Defendant Name: TOM JONES

Defendant #

Please provide a concise description of efforts to use economy of scale, efficiency, shared tasks, shared service providers (such as discovery coordinator, objective case paralegal, etc.):

Counsel has efficiently litigated this case despite its complexity primarily through the use of two attorney associates, Kristine Fox and Blair Perilman, who have appeared in this matter. The time of those associates, to date, has been donated by Blair Perilman LLC. Given the particularly time-consuming nature of this case, including among other things for the review of classified documents within the Sensitive Compartmented Information Facility (SCIF) and other extensive defense investigation, however, Blair Perilman LLC is requesting the payment of one associates time for the remainder of this matter.

Counsel has also efficiently litigated this case through the extensive use of a paralegal. However, the paralegal in this matter has not been approved for a security clearance, despite a motion to do so, which was opposed by the Government. Thus, utilization of a paralegal going forward will be limited.

To date the following hours have been expended in this matter to date: Blair Perilman: 380.2 hours (approx. 7.5 hours/wk) Sandy Andrews (paralegal): 211.20 hours (approx 4.5 hours/wk)

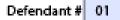
This budget assumes that the September 2015 trial date will be met, and is therefore inclusive of trial time. An amended budget will be submitted if/when that trial date is extended.

How Do I Estimate Time? Method #1: Plan the Strategy
List and estimate times for specific tasks

- Method #2: Review Time in Prior Similar Cases
 - Review past vouchers and take into account differences in cases
- Method #3: Assess Your Availability
 - Estimate how many hours per week you have available to work on the case

Case Name:	United States v. Smith
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ATTORNEY HOURS

	TASKS	Hours Requested	Hours Approved	Brief Description (fields will expand)
	In Court			
15.a.	Arraignment and/or Plea	0		
15.b.	Bail and Detention Hearings	0		
15.c.	Motion Hearings	16	16	Argument of pre-trial motions including motions in limine and other pre-trial hearings, including status conferences; assuming 4 hearings of approximately 4 hours each
15.d.	Trial	128	0	Assuming approximately 3 week trial at 4 days each week
15.e.	Sentencing Hearings	0		
15.f.	Revocation Hearings	0		
15.g.	Appeals Court	0		
15.h.	Other (specify)	0		
	Out of Court			
16.a.	Interviews and Conferences	100	100	Interviews with classified and percipient witnesses following production of classified information; assuming 10 hour interviews of 5 witness (with associated preparation time) as well as 25 hours of general witness preparation and 25 hours of preparation with defendant.
16.b.	Obtaining and Reviewing Records	100	50	Review classified materials inside of Sensitive Compartmented Information Facility (SCIF); assuming 5 full days in SCIF at 10 hours each day, along with 50 hours for review of other records.
16.c.	Legal Research and Brief Writing	85	85	Pre-trial motions including motions in limine; assumes 10 hours dedicated to briefing/ arguing 5 motions, as well as 5 hours dedicated to responding to and preparing to argue 5 motions for Government.
16.d.	Travel Time	50	50	Travel to potential expert and percipient witnesses, most likely in Washington D.C., and surrounding area; assumes 5 round trips with 5 hours of travel time for each one-way trip.
16.e.	Investigative and other work (specify)	90		Other assorted defense investigation work including of fact and expert witnesses; assumes 2 full-time weeks.
Tota	In Court and Out of Court Hours:	569	391	NOTE: Hours are NOT fungible between in court and out of court categories. Budgets can be amended by filing an additional form stating what has been accomplished and why additional funds became necessary during this budget period.

Requesting Service Providers and Managing Discovery

- Shop Around
- Negotiate Hourly and Travel Rates
- Use the "One Step at a Time" Approach
- Contact the National Litigation Support Administrator
 - Sean Broderick and Kelly Scribner (510) 637-3500
- Talk to Counsel for Co-Defendants



	SERVICE PROVIDERS (Paralegal, Associate, Investigator(s), Experts) (Please attach his/her resume or C.V.)							
	Specialty	Name	Reqd Hours	Reqd Rate	Reqd Cost	Appd Hours	Appd Rate	Appd Cost
+	Paralegal Services	Renee Lawden	200	\$45.00	\$9,000.00	200	\$45.00	\$9,000.00
+	Investigator .	Oliver Smith	100	\$55.00	\$5,500.00	100	\$55.00	\$5,500.00
+	Litigation Support Services	Al George- discovery coordinate	иr 25	\$25.00	\$625.00	25	\$25.00	\$625.00
+	Other ,	Timmy Uthen	200	\$110.00	\$22,000.00	0	\$0.00	\$0.00
			Amount Rec	quested:	\$37,125.00	Amount A	pproved:	\$15,125.00
		CENUCE DOOLO						
		SERVICE PROVI	DERJUSTIFI					
	Specialty	Name Brief Description Limitations (Court use only)				ourt use only)		
+	Paralegal Services	Renee Lawden Organizing document production, cite checking, and trial preparation.						
+	Investigator	Oliver Smith	Diver Smith Continued defense investigation.					

	SERVICE PROVIDER JUSTIFICATION					
+	Litigation Support Services	Al George- discovery coordinat	Technological services for use of courtroom technology during trial. BFP-I spoke with lawyers about his role and he is the acting discovery coordinator= tech services to convert software or upload documents in the database			
+	Other	Timmy Uthen	Review of any disclosed classified material must be done in the Sensitive Compartmented information Facility (SCIF), the time required to review that material is substantial. Counsel requests the payment of that time for one associate attorney.			

	ATTORNEY/SERVICE PROVIDER EXPENSES Go to GSA.gov for a guide to travel expenses					
	Туре	Expense	Costs Requested	Costs Approved	Brief Description	
+	•	F				
	Total Costs Reque	sted and Approved:				

GRAND TOTAL REQUESTED: \$109,	388.00 GRAND TOTAL APPROVED:	\$64,782.00
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CMA Reviews Budget with Counsel CMA Reviews Budget Forms

- •CMA Makes Recommendation
 - Discuss with Case Managing Attorney
 - Modify budget as necessary may increase or decrease numbers depending on case assessment
- Ex Parte Conferences, as needed



Counsel Uploads Budget to eVoucher

- Create a CJA-26
- <u>Basic Info Tab</u>- enter the "amount requested" –use the \$ for attorney hours (service providers \$ will be entered in an AUTH)
- <u>Justification Tab</u> No need to answer questions
- <u>Documents Tab</u> Counsel uses a CJA-26 to upload the budgeting form and supporting documents to eVoucher
- <u>Confirmation Tab</u>: No need to answer questions
- Let's go through an example.....

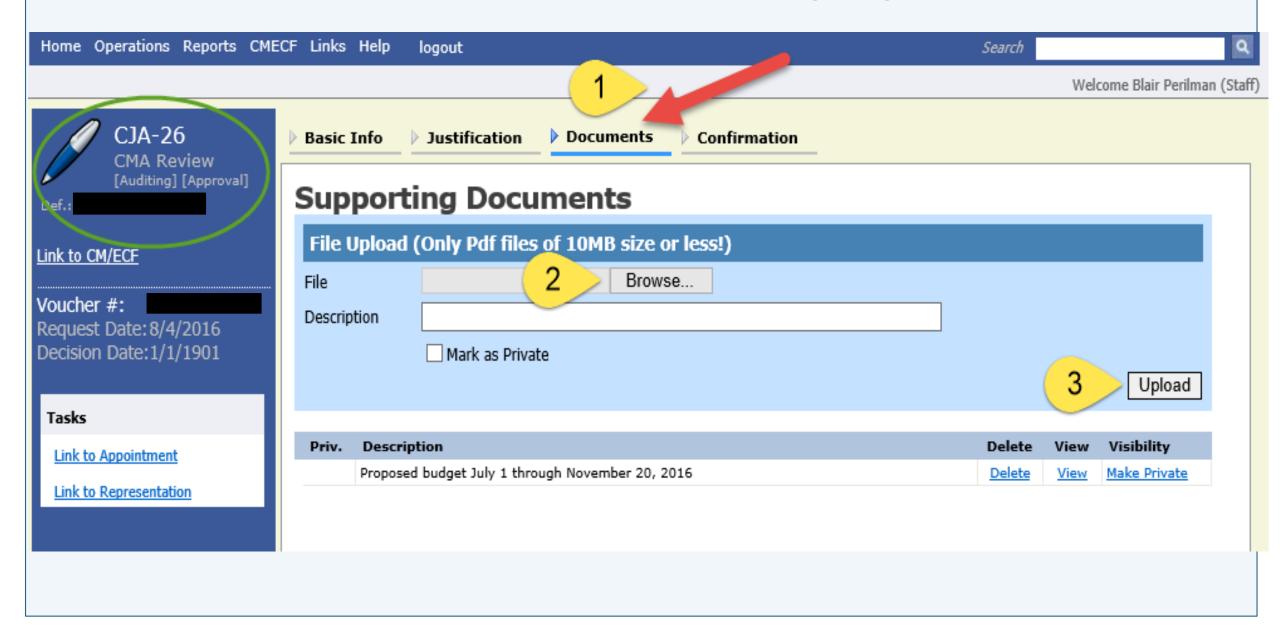
Basic Info: Amount Requested = Total Attorney Hours \$ NOT Total Budget \$

🥖 CJA-26	Basic Info Dustification Documents Confirm	mation	
CMA Review [Auditing] [Approval] Def.:	Basic Info		
	1. CIR./DIST/DIV.CODE 2. PERSON REPRESENTED 0981		VOUCHER NUMBER
Link to CM/ECF	3. MAG. DKT/DEF.NUMBER 4. DIST. DKT/DEF.NUMBER	5. APPEALS. DKT/DEF.NUMBER	6. OTHER. DKT/DEF.NUMBER
Voucher #: 0981.0009940 Request Date: 8/4/2016	7. IN CASE/MATTER OF(Case Name) 8. PAYMENT CATEGORY USA v. Mondragon et al of alleged felony)	9. TYPE PERSON REPRESENTED Adult Defendant	10. REPRESENTATION TYPE Criminal Case
Decision Date:1/1/1901	11. OFFENSE(S) CHARGED 18:1590.F Human Trafficking 18:2 & 1590(2000)18:1589.F Forced Labor 12. ATTORNEY'S NAME AND MAILING ADDRESS	& Attempted Forced Labor 18:2 & 1: 13. COURT ORDER	589(2000)
Tasks Link to Appointment		A Associate C Co-C	ointing Counsel 🗌 P Subs for Panel Attorney
Link to Representation		Y Standby Counsel	
		Appointment Dates Signature of Presiding Judge or By Order of t James L Robart	
	14. LAW FIRM NAME AND MAILING ADDRESS	Date of Order N 12/7/2015 Repayment VES VNO	'unc Pro Tunc Date
	Amount Requested 44304.00 *	Amount Approved]
	Pre Trial Hours 326.0 Trial Hours 0.0 Sentencing Ho	ours 0.0 Other In-Court Hours 6.0	Out-Of-Court Hours 320.0
	Number of Counts 2 Number of Co-Defendants	; 4	
	Other Pending Cases		
	Sentencino Guideline Ranoe		

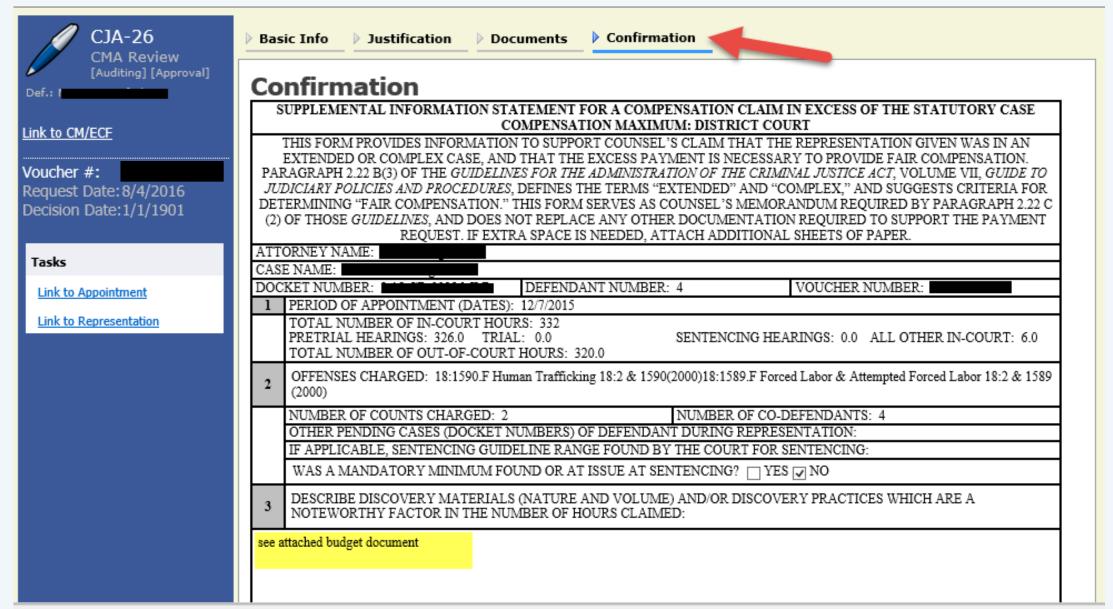
Justification: No Need to Answer the Questions

CJA-26 CMA Review	Basic Info Justification Documents Confirmation						
[Auditing] [Approval]	Justification						
Link to CM/ECF	3. Describe discovery materials (nature and volume) and/or discovery practices which are a noteworthy factor in the number of hours claimed.						
Voucher #: Request Date: 8/4/2016	see attached budget document						
Decision Date: 1/1/1901		~					
Tasks							
Link to Appointment	4. List and describe motions, legal memoranda, jury instructions, and sentencing documents, or legal research not resulting in such, which are a noteworthy factor in the number of hours claimed and which were drafted originally for this case (do not include						
Link to Representation	standardized motions, etc., unless content was modified significantly).	_					
	see attached budget document	\sim					
		-					
	5. Summarize investigation and case preparation (e.g., number and accessibility of witnesses interviewed, record collection, document						
	organization) which are a noteworthy factor in the number of hours claimed.	_					
		\sim					
		~					

Documents: Upload the Budgeting Form



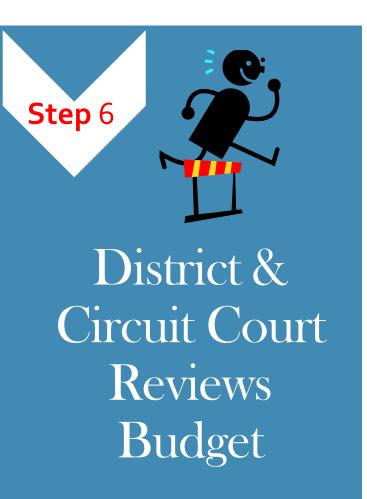
Confirmation: No Need to Answer the Questions



Create AUTHs for Service Providers in Budget • If you have requested service providers or experts in your budget, create an AUTH in eVoucher for each provider

 Attach a copy of your budgeting form and other supporting documentation such as resumes or CVs under the Documents Tab of the AUTH CMA Uses Court Notes in eVoucher to Communicate with Judge

	Attention: The notes you enter will be available to the next approval level.	
Public/Attorney Notes	see attached budget form, review by Blair Perlman.	~
		\sim
Private/Court Notes	8/21/16 Blair Perilman to Judge: I recommend approval of this budget in full.	^
		\sim
Appointment Notes	budgeted case	~
		~
I certify that information	t I have reviewed the above	et.
Date:	Approve 🐼 Reje	
« First < Previo	Next > Last » Save Delete Draft	



- The District Judge reviews the budget in eVoucher and routes the budget to a Ninth Circuit Judge for review.
- Once the budget is approved by a Ninth Circuit Judge, counsel may begin submitting vouchers on the case.

CMMECF

What If Your Budget Request is Denied?

• It's important to MAKE A RECORD

 If a service provider or expert request is denied, make a record of this in CM/ECF for appellate purposes After a Budget is Approved...

- CMA will provide ongoing assistance throughout the case
- CMA manages budget amendments- if you need additional funding reach out to your CMA
- CMA's and CJA Admins are able to monitor budget compliance using eVoucher reports
- Counsel and service providers can start submitting interim vouchers on the case

Billing Tips for CJA Panel Attorneys



Best Practices for Billing No bundling services—vouchers must reflect discrete individual tasks, especially tasks billable to different voucher categories.

- Provide detailed descriptions of your work
- Aggregate ECF document review
- Don't bill for administrative tasks

Billing Document Review

- Indicate bates ranges or total number of pages reviewed in excess of one hour
- Indicate nature of the material reviewed (e.g., transcripts, investigative reports, medical records, etc.)

Tracking Unbilled Time in eVoucher

- If you have performed tasks that you have not billed for, you should be noting this in the Attorney Notes section in the "Confirmation Tab"
- It is important for the court to evaluate unbilled time
- Future versions of eVoucher will track this

Billing the 12 Hour Workday • The Court understands there will be times when a lawyer bills more than twelve (12) hours in a workday (travel, in trial etc.)

• If billing more than twelve (12) hours in a single day, counsel must ensure that sufficient justification is provided. Without such justification, the voucher may be rejected back to counsel with the request to provide additional information.

Let's look at some examples....

PROPER CLASSIFICATION OF SERVICES (NO BUNDLING):

Do this...

Date	Service	Time	Description
4/5/16	Interviews and	1.6	Met with AUSA (.4); phone call with client(.4); met with client at jail(.8)
	Conferences		
4/5/16	Obtain/Review <u>Rcds</u>	3.2	Reviewed 302sre: Count 1 (Bates Nos. 001-225)
4/5/16	Legal Research	1.5	Legal research for motion to suppress

Not this...

Date	Service	Time	Description
4/5/16	Interviews and Conferences	4.1	Met with AUSA (.4); phone call with client(.8); reviewed 200 pages of wiretap transcripts (Bates Nos. 220-420) (1.0); met with client at jail(.4); legal research for motion to suppress (1.5)

DETAILED TASK DESCRIPTIONS:

Do this...

Date	Service	Time	Description	
4/5/16	Travel Time	1.0	Traveled by private car to locate and meet with two possible eye-witnesses (W1 and W2) in Fresno, CA (includes travel to and within Fresno to two separate residences)	
4/5/16	Interviews and Conferences	1.6	Interviewed two possible eye-witnesses (W1 and W2) in Fresno, CA, at their separate residences	
4/8/16	Obtain/Review Rcds	1.5	Reviewed 200 pages of wiretap transcripts(Bates Nos. 220-420)	
4/17/16	Legal Research	5.2	Researched whether the search of client's car without a warrant was unlawful; drafted motion to suppress (Doc. 112)	
4/20/16	Obtain/Review <u>Rcds</u>	2.0	Reviewed cell site data, take notes, and draft timeline. <u>Approx</u> 150 pages of cell site discovery (no bates numbers).	

Not this...

+			
Date	Service	Time	Description
4/5/16	Travel Time	1.0	Travel to Fresno, CA
4/5/16	Interviews and	1.6	Witness interviews
	Conferences		
4/8/16	Obtain/Review <u>Rcds</u>	1.5	Reviewed discovery
4/17/16	Legal Research	5.2	Legal research and writing
4/20/16	Obtain/ReviewRcds	2.0	Reviewed discovery

AGGREVATE ECF DOCUMENT REVIEW:

Do this...

Date	Service	Time	Description
4/5/16	Obtain/Review <u>Rcds</u>	.3	Reviewed multipleECF filings(Doc. 2-9)

Not This....

Date	Service	Time	Description
4/5/16	Obtain/Review <u>Rcds</u>	.1	ECF documentreview
4/5/16	Obtain/Review <u>Rcds</u>	.1	ECF documentreview
4/5/16	Obtain/Review <u>Rcds</u>	.1	ECF documentreview
4/5/16	Obtain/ReviewRcds	.1	ECF documentreview
4/5/16	Obtain/Review <u>Rcds</u>	.1	ECF documentreview

Submit Your Bills on Time • Required to submit final voucher within 45 days of final judgment

• Don't wait to submit your bills

• Courts will be able to monitor compliance using the reporting feature in eVoucher

Thank you for your time!

We look forward to working with you.

Kristine Fox



- 415.355.8985
- <u>kfox@ce9.uscourts.gov</u>

Blair Perilman



- 415.355.8982
- <u>bperilman@ce9.uscourt</u> <u>s.gov</u>