

GUIDANCE TO ATTORNEYS IN DRAFTING THE MEMORANDUM REQUIRED FOR A COMPENSATION CLAIM IN EXCESS OF THE CASE COMPENSATION MAXIMUM

Paragraph 2.22 C(2) of the *Guidelines for the Administration of the Criminal Justice Act (CJA Guidelines)*, Volume VII, *Guide to Judiciary Policies and Procedures*, provides:

In any case in which the total compensation claimed is in excess of the statutory case compensation maximum, counsel shall submit with the voucher a detailed memorandum supporting and justifying counsel's claim that the representation given was in an extended or complex case, and that the excess payment is necessary to provide fair compensation.

Paragraph 2.22 B(3) of the *CJA Guidelines* states that a case is complex if the "legal or factual issues... are unusual, thus requiring the expenditure of more time, skill and effort by the lawyer than would normally be required in an average case," and that a case is extended if "more time is reasonably required for total processing than the average case." Paragraph 2.22 B(3) lists the following criteria as useful in determining fair compensation in extended or complex cases: Responsibilities involved measured by the magnitude and importance of the case; manner in which duties were performed; knowledge, skill, efficiency, professionalism, and judgment required of and used by counsel; nature of counsel's practice and injury thereto; any extraordinary pressure of time or other factors under which services were rendered; and any other circumstances relevant and material to a determination of a fair and reasonable fee.

To assist counsel in writing a "detailed memorandum supporting and justifying counsel's claim that the representation given was in an extended or complex case, and that the excess payment is necessary to provide fair compensation," the following topics are provided for counsel's consideration. Some of these issues may not apply to a particular case or may not be noteworthy for this memorandum. Counsel, of course, may address topics other than those listed below.

- Length of appointment to case; total number of in-court hours, specifying pre-trial hearings, trial, sentencing hearings, and other hearings; and total number of out-of-court hours.
- Offenses charged; number of counts charged; and other pending cases of defendant during the representation.
- Number of co-defendants.
- Length of sentencing hearing; complexity of issues; severity of potential sentence.

Exhibit C

- Discovery materials (nature and volume) and/or discovery practices.
- Complexity or novelty of legal issues, including motions, legal memoranda, jury instructions, and sentencing documents, or legal research not resulting in such, which were drafted originally for this case (do not include standardized motions, etc., unless content was modified significantly).
- Investigation and case preparation (e.g., number and accessibility of witnesses interviewed, record collection, document organization).
- Use of investigative, expert, or other services (CJA 21 voucher).
- The following client considerations: Communication with client/family; language differences; accessibility of client; other.
- Any expense (see Item 19 of the CJA 20 voucher) greater than \$500.
- Any other noteworthy circumstances regarding the case and the representation provided to support this compensation request. Include, if applicable: negotiations with the U.S. Attorney's Office or law enforcement agency; complexity or novelty of legal issues and factual complexity; responsibilities involved measured by the magnitude and importance of the case; manner in which duties were performed and knowledge, skill, efficiency, professionalism, and judgment required of and used by counsel; nature of counsel's practice and hardship or injury resulting from the representation; any extraordinary pressure of time or other factors under which services were rendered.

**Supplemental Information Statement For a Compensation Claim in
Excess of the Statutory Case Compensation Maximum: District Court**

This form provides information to support counsel's claim that the representation given was in an extended or complex case, and that the excess payment is necessary to provide fair compensation. Paragraph 2.22B(3) of the *Guidelines for the Administration of the Criminal Justice Act, Volume VII, Guide to Judiciary Policies and Procedures*, defines the terms "Extended" and "Complex," and suggests criteria for determining "Fair Compensation." This form serves as counsel's memorandum required by Paragraph 2.22C(2) of those *Guidelines*, and does not replace any other documentation required to support the payment request. If extra space is needed, attach additional sheets of paper.

Attorney Name: _____

Case Name: _____

Docket Number: _____

Defendant Number: _____

Voucher Number: _____

1 Period of Appointment (Dates:) _____ to _____

Total Number of In-Court Hours: _____ Specifying: Pretrial Hearings _____

Trial _____ Sentencing Hearings _____ All Other In-Court _____

Total Number of Out-of-Court Hours: _____

2 Offenses Charged: _____

Number of Counts Charged: _____ Number of Co-Defendants: _____

Other Pending Cases (Docket Numbers) of Defendant During Representation: _____

If Applicable, Sentencing Guideline Range Found By the Court for Sentencing: _____

Was a Mandatory Minimum Found or at Issue at Sentencing: Yes ____ No ____

3 Describe discovery materials (nature and volume) and/or discovery practices which are a noteworthy factor in the number of hours claimed: _____

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 standardized motions, etc., unless content was modified significantly): _____

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:

6

Explain, if noteworthy, impact on the number of hours claimed of investigative, expert, or other services used (CJA 21 Voucher):

7

Check whether any of the following client considerations are a noteworthy factor in the number of hours claimed and explain each: Communication with client/family _____
Language difference _____ Accessibility of client _____ Other _____

8

Explain any expense (Items 17 and 18 of the CJA 20 Voucher) greater than \$500:

9

Explain any other noteworthy circumstances regarding the case and the representation provided to support this compensation request:

Include, if applicable: (A) negotiations with U.S. Attorney's Office or law enforcement agency; (B) complexity or novelty of legal issues and factual complexity; (C) responsibilities involved measured by the magnitude and importance of the case; (D) manner in which duties were performed and knowledge, skill efficiency, professionalism, and judgment required of and used by counsel; (E) nature of counsel's practice and hardship or injury resulting from the representation; and (F) any extraordinary pressure of time or other factors under which services were rendered.

Signature of Appointed Attorney:

Date: