

# **FACT WITNESS COMPENSATION GUIDELINES**

## **United States District Court Eastern District of Washington**

The following are guidelines to be followed in order to obtain attendance fees, travel and accommodations reimbursement for fact witnesses:

### **1. Responsibilities:**

- A. It is the responsibility of each attorney to e-file a motion and proposed order in CM/ECF for issuance of subpoenas at government expense and service by the U.S. Marshals Service.
- B. Counsel must provide the U.S. Marshals Service with a copy of the court order when witness fees and accommodations are requested, regardless of whether or not the witness resides within the district.
- C. The court order shall be in compliance with Rule 17(b) of the Federal Rules of Criminal Procedure and must name the witnesses who are subpoenaed.

### **2. Procedures:**

- A. As soon as the attorney determines that a particular witness' testimony is necessary, the attorney must obtain a copy of the appropriate court order, attach it to the witness' subpoena and forward it to the U.S. Marshals Service for service of said subpoena.
- B. If the witness is unable to provide for their own transportation, the attorney must notify the U.S. Marshals Service and supply them with a copy of the court order and the subpoena. The U.S. Marshals Service will make the necessary travel arrangements.
- C. If a witness cannot afford his or her expenses, the attorney can get a list of authorized hotels from the Clerk's Office. The witness should receive the government rate. It is imperative that these reservations be made well in advance. Upon making the reservation, please advise that the U.S. Marshals Service should be billed directly.
- D. Please visit the court's website [www.waed.uscourts.gov](http://www.waed.uscourts.gov) for current rates regarding mileage, lodging and meals.

3. **Completing the Fact Witness Voucher, Form DOJ-3 (Attachment A):**

- A. When the presence of the fact witness is no longer required, the Attorney must complete a Fact Witness Voucher, Form DOJ-3 (see Attachment A).
- B. The voucher must be filled out by the Trial Office, coordinating all information with the fact witness, but the CJA attorney must not sign the form. **The amount (dollar) column shall be left blank and will be calculated by the U.S. Marshals Service.**
- C. The attorney (with the assistance of the witness) must fill out Parts I, II (Section A), and III. The Courtroom Deputy must sign and date Part II, Section B. (Attendance Attestation and prior to signing must have a copy of Form USM-376A on file with the USMS). Part IV is signed by the witness. Part V is signed by a Federal government employee of the requesting office validating the accuracy and completeness of the expenses claimed.
- D. Upon completion of the Fact Witness Voucher (DOJ-3), the attorney should take the court order, subpoena, voucher, and all reimbursable receipts to the U.S. District Court Clerk's Office. The witness should be advised that the U.S. Marshal will send them a check for their fees and expenses. Only in extraordinary circumstances, will the U.S. Marshals Service make payment immediately upon presentation of the voucher.

4. **Extraordinary Circumstances:**

- A. Occasionally witnesses will have special needs that must be addressed in order for them to appear. Examples of such special needs include, but are not limited to, the following: Ambulance transportation, Attendants, Travel expenses for the parent/guardian of a child witness.
- B. When a special circumstance is identified, it is the attorney's responsibility to request authorization, coordinated and pre-arranged with the Special Authorization Unit, Department of Justice, Washington, D.C., Justice Management Division/Finance Staff, 600 E. Street, NW, Room 4090, Washington, DC 20530 (202) 616-6260.

## **FACT WITNESS TRAVEL GUIDELINES**

1. **Witness Attendance Fees:**

Fact witnesses are allowed a \$40.00 attendance fee for each day's attendance and for the time necessary to travel. (28 U.S.C. 1821 & 1825)

2. **Authorization of Travel and Allowances:**

Fact witnesses are entitled to reimbursement for necessary transportation by the least expensive method available and reimbursement for meals and lodging when they are required to remain away from their residences overnight. They are expected to exercise the same care in incurring expenses that a prudent person would exercise in traveling on personal business and expending personal funds. Excess costs, circuitous routes, delays, or luxury accommodations and services unnecessary or unjustified are not acceptable under this standard. Witnesses will be responsible for excess costs and additional expenses incurred for personal preference or convenience.

3. **Allowable Transportation:**

Travel shall be by the method of transportation which will result in the greatest advantage to the Government. (28 CFR 21.5)

A. Intermediate travel (50 to 350 miles from court): Travel requiring one day will be reimbursed the MOST ECONOMICAL WAY. Consult the court's website [www.waed.uscourts.gov](http://www.waed.uscourts.gov) for current mileage rates. The Rand McNally Standard Highway Mileage Guide is designated for use in determining mileage. The witness should keep a record of their odometer readings if traveling by motorcycle or automobile. If two or more witnesses travel in the same privately owned vehicle, only one reimbursement for mileage will be paid. If a government vehicle is used, there is no reimbursement for mileage.

B. Long distance travel (over 350 miles from court): Travel requiring longer than one day will be reimbursed the MOST ECONOMICAL WAY. A reasonable minimum daily travel distance by a privately owned vehicle is 350 miles.

1. Common Carrier: Train, bus or airfare will be reimbursed at the Government rate. Reimbursement WILL NOT be made for First Class accommodations, "Frequent Flyer" tickets, or charter service. DO NOT purchase non-refundable tickets. If the appearance date

changes or is canceled, the witness WILL NOT be reimbursed for non-refundable tickets. RECEIPTS MUST BE SUBMITTED.

2. To and from carrier terminals: Expenditures for the use of taxicab and airport limousine fares are reimbursed. However, when courtesy transportation is provided by hotels/motels, the witness should be made aware of his/her requirement to use them. RECEIPTS ARE REQUIRED FOR ALL SINGLE ITEMS COSTING OVER \$75.00.

C. Parking Receipts: Parking receipts are required by law in order to reimburse witnesses for ANY parking. Attach receipts to the originals of Form DOJ-3.

D. RENTAL CARS ARE NOT REIMBURSABLE

4. **Subsistence:**

Fact Witnesses are entitled to reimbursement for meals and lodging when they are required to remain away from their residences overnight. (The long distance travel mileage prevails). The dollar amounts for per diem allowances for witnesses are in accordance with those for Government employee travel. Consult the court's website [www.waed.uscourts.gov](http://www.waed.uscourts.gov) for current lodging allowances.

- A. Lodging Reimbursements: If it is necessary for a witness to remain away from home overnight, they will be reimbursed for the ACTUAL COST of lodging. However, the reimbursement shall not exceed the lodging allowable rates. ALL REIMBURSEMENT FOR LODGING MUST BE SUPPORTED BY HOTEL/MOTEL RECEIPTS. (Copies of lost or destroyed receipts from the lodging establishments are required).
- B. Shared Lodging: If the lodging receipt shows a charge for double occupancy, such fact shall be shown on the voucher. One-half of the double occupancy charge shall be allowable for each witness. If the person sharing the room is not another witness, the witness shall be allowed the single room rate.
- C. Lodging with Friends or Relatives: When a witness obtains lodging from friends or relatives with or without charge, no part of the per diem allowance will be allowed for lodging. Neither costs based on room rates for comparable commercial lodging in the area nor flat "token" amounts will be considered as reasonable.

- D. Meals and Incidental Expenses Allowance: The maximum per diem rates include a fixed allowance for meals and incidental expenses. Fact Witnesses shall be entitled to one-half the daily meals and expense allowance for the day of departure and day of return. Full days at the place of attendance shall be at the full meals and incidental expenses allowance rate. Consult the court's website [www.waed.uscourts.gov](http://www.waed.uscourts.gov) for current per diem rates. A reasonable minimum daily travel distance by a privately owned vehicle is 350 miles. If a witness leaves his/her residence earlier than necessary he/she will be paid only for the necessary time.

5. **Pretrial Conferences:**

Attorneys may authorize payments not to exceed three days (five days if a weekend is included) for Pretrial Conferences with witnesses in the period between the scheduling of a trial, hearing or grand jury proceeding and a witness' appearance. In addition, pretrial days caused by scheduling changes in trial, hearing or grand jury proceeding dates require a written explanation by the attorneys. The explanation should be attached to the witness voucher. Travel (other than by local witnesses) separate from trial attendance and/or additional pretrial days not caused by changes in scheduling require the written approval of the SPECIAL AUTHORIZATIONS UNIT. Requests must be submitted on Request and Authorization for Fees and Expenses of EXPERT Witnesses, Form OBD-47 (currently being revised 11/2017).

6. **Payment of Fact Witness Vouchers:**

Whenever a witness is advised that his or her attendance is no longer required, the witness should contact the CJA Attorney of Record. The attorney should then complete a Fact Witness Voucher, Form DOJ-3, obtain the witness's signature, sign the form and submit it to the Clerk's Office for approval. The U.S. Marshals Service will process the voucher and payment will be mailed to the witness. ONLY under unusual circumstances will the U.S. Marshals Service pay the witness immediately if the witness requires the funds to return home.

**NOTE: THE DOJ-3 MUST NOT BE HANDLED BY THE FACT WITNESS OTHER THAN FOR SIGNATURE PURPOSES**

**PART I - GENERAL INFORMATION**

**This Voucher is for:** ☐ Fact Witness ☐ Travel Companion ☐ Federal Government or Military Employee Witness

**This Voucher is from:**

*Please answer each question below.*

**The Fact Witness/Travel Companion:**

☐ Was ☐ Was Not a United States Citizen at the time of attendance.

☐ Was ☐ Was Not a Federal Government or Military employee at the time of attendance.

☐ Did ☐ Did Not receive a cash or check advance. **Advance Amount:** \$ \_\_\_\_\_ **From:** \_\_\_\_\_

**Witness Name:**

**Travel Companion Name (if applicable):**

***For U.S. Citizen or Legal Resident -*** Social Security Number: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

***For Non-U.S. Citizen -*** Passport/Visa No.: \_\_\_\_\_ **Alien Registration Record No.:** \_\_\_\_\_

**Address:** \_\_\_\_\_ **City:** \_\_\_\_\_

**State:** \_\_\_\_\_ **Country:** \_\_\_\_\_ **ZIP:** \_\_\_\_\_

**Phone No.:** \_\_\_\_\_ **E-Mail Address:** \_\_\_\_\_

**Court Doc. No.:** \_\_\_\_\_ **Case Name/No.:** \_\_\_\_\_

**District:** \_\_\_\_\_ **Court Location:** \_\_\_\_\_

**GTA:** ☐ N/A ☐ Transportation ☐ Lodging

**PART II - ATTENDANCE CERTIFICATION**

NOTE: Retention of these fees is considered taxable income and reportable to IRS.

A. Attendance				FEES			OBJECT CLASS UFMS/FMIS	AMOUNTS (Dollars)
Deposition Dates:		to		\$40 @		Days	11804 / 1126	
Grand Jury / Trial Attendance Date / Hearing (Including Travel):		to		\$40 @		Days	11804 / 1156	
Civil Investigative Demand:		to		\$40 @		Days	11804 / 1156	
Pretrial Attendance Dates (Including Travel):		to		\$40 @		Days	11804 / 1194	
Detained Dates - Citizen/Visitor in Custody:		to		\$40 @		Days	11804 / 1193	
Detained Dates - Deportable Alien in Custody:		to		\$1 @		Days	11804 / 1195	

**TOTAL FEES:**

**B. Attendance Attestation:** I attest that the witness named above attended in the case or matter indicated and is entitled to the statutory allowance for attendance and travel.

\_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Title of Authorized Federal Government Official**

A copy of Form USM-376A, *Signature/Designation Form for Approving Officer* must be on file with the USMS (A new signature form is required as updates occur).

**PART III - ALLOWANCES**

	OBJECT CLASS UFMS / FMIS	AMOUNTS (Dollars)
<b>C. Travel by Carrier (Receipts over \$75.00 required if paid by witness or travel companion. DO NOT claim if paid by Government.)</b> Check One: <input type="checkbox"/> Train <input type="checkbox"/> Bus <input type="checkbox"/> Airplane	21011 / 2191 2108	
<b>D. Travel by Privately Owned Vehicle:</b> Round Trip Mileage: _____ @ \$ _____ Per Mile Total Number of Trips: _____ Less Advance Received: _____	21015 / 2192	
<b>E. Local Transportation &amp; Other Expenses (e.g. subway, bus, taxi, tolls, parking, baggage fees, etc.)</b> ** All expenses over \$75.00 must have a receipt. If receipts are not provided for expenses over \$75.00, a Verification Without Receipt Form must be submitted. <b>List Expenses and Value of the Expenses Authorized to be Paid:</b>	21001 / 2193 2133	
<b>F. Meals and Lodging:</b> 1. Travel Days (3/4 M&IE for Federal/Military Employee, 1/2 M&IE for non-Federal/Military Employee) @ \$ _____ x _____ Day(s) = \$ _____ 2. Days Away from Home (full day's M&IE per day) @ \$ _____ x _____ Day(s) = \$ _____ 3. Actual Cost of Lodging, Not to Exceed \$ _____ @ \$ _____ * x _____ Day(s) = \$ _____ (Do not claim if paid by GTA) *The Actual Cost of Lodging cannot be greater than the Not to Exceed lodging amount.	21013 / 2194 21013 / 2194 21012	
<b>NET AMOUNT PAID (Fees plus totals of Sections C, D, E, and F minus Advance Received from top of Page 1):</b>		

**PART IV - CERTIFICATION**

**SOCIAL SECURITY NUMBER/PRIVACY ACT NOTICE:** Disclosure of your Social Security number is mandatory for Federal income tax reporting purposes under the authority of 26 CFR Section 301-6109-1, in order to ensure the accuracy of income computation by the Internal Revenue Service. This information will be used to identify an individual who is compensated by funds of the Department of Justice. Failure to provide this information may result in delay of your compensation, and the Department of Justice will be required to notify the Internal Revenue Service that your number is unknown. This information is being provided on Form 1099 to the Internal Revenue Service.

Falsification of an item may constitute a forfeiture of claim (28 U.S.C., Section 2514) and may result in a fine of not more than \$10,000 or imprisonment of not more than 5 years or both (18 U.S.C. 287).

**CERTIFICATION:** I certify that this voucher is true and correct to the best of my knowledge and belief, and that payment or credit has not been received by me.

\_\_\_\_\_  
Signature\_\_\_\_\_  
Date**PART V - CLAIM VERIFICATION**

**VERIFICATION:** Based upon the above information and receipts furnished by the witness or travel companion, I verify the above information is true and correct to the best of my knowledge.

\_\_\_\_\_  
Signature\_\_\_\_\_  
Date\_\_\_\_\_  
Title of Authorized Federal Government Official\_\_\_\_\_  
E-mail Address (To receive copy of final DOJ-3)**PART VI - CERTIFICATION / DISBURSEMENT (For JMD or USMS Use Only)**

**CERTIFICATION:** This voucher is certified correct and proper for payment.

\_\_\_\_\_  
Printed Name\_\_\_\_\_  
Signature\_\_\_\_\_  
Date\_\_\_\_\_  
Title of Authorized Certifying Official\_\_\_\_\_  
Component

# INSTRUCTIONS FOR COMPLETING FORM DOJ-3

## PART I - GENERAL INFORMATION

(To be completed by the Trial Office. The DOJ-3 must not be handled by the fact witness, travel companion, or Federal government/military employee witness other than for signature purposes.)

This voucher is for:

- Fact Witness    Travel Companion    Federal Government/Military Employee Witness

The travel companion must have a separate voucher from the fact witness or Federal government/military employee witness. A memo or an Order from the court approving the travel companion's expenses must be attached to the voucher. Attendance fees are not to be paid to the travel companion or Federal government/military employee witness.

Include the fact witness's or Federal government/military employee witness's name when completing the voucher for a travel companion.

This voucher is from:

- ATR    CIV    CJA    CRT    ENRD    FPD    TAX    USAO

Answer each question to indicate if:

- Select Fact Witness, Travel Companion, or Federal Government/Military Employee Witness.
- The fact witness, travel companion was/was not a United States citizen at the time he/she appeared to testify. If not a citizen, he/she will be required to show proof of his/her legal residence status or visitor status.
- The fact witness, travel companion, was/was not a Federal government/military employee witness at the time he/she appeared.
- The fact witness, travel companion, or Federal government/military employee witness did/did not receive a check or cash advance for his/her expenses in traveling to court. If an advance was received, enter the amount and issuing office here.

Indicate and/or verify the fact witness's, travel companion, or Federal government/military employee witness's Name, Social Security Number, Passport/Visa Number (if applicable), Alien Registration Record Number (if applicable), Address, Telephone Number and E-mail Address to ensure that they are correct.

**ACCEPTABLE IDENTIFICATION OR DOCUMENTS:** One or more of the following items is mandatory in order to receive fees and expenses.

- Social Security Number (Legal Citizen or Resident of the U.S.)
- Alien Registration Record Number (Alien Who Is Legally Permitted In the U.S.)
- Passport Number (International Fact Witness Only)
- Visa Number (International Fact Witness Only)
- Court Order Classifying a Deportable Witness
- Material Witness Warrant
- Valid Photo Identification
- Subpoena
- USA-150 or Letter in lieu of Subpoena (DOJ Only)
- Court Order Requesting the Appearance and Expenses of a Fact Witness (Federal Public Defender/Criminal Justice Act Attorney Only)
- Court of Appointment (Federal Public Defender/Criminal Justice Act (CJA) Attorney Only)
- DOJ-44 (International Witness)
- Funding Cable (International Fact Witness Only)
- DOJ-426 (Federal Government/Military Employee Witness)
- Memo Explaining Unusual Circumstances
- Memo Approving Miscellaneous Expenses (DOJ Only)

This information will be used to identify an individual who can be compensated in accordance with 28 U.S.C. 1821, 28 CFR 21, 5 U.S.C. 5751 and 18 U.S.C. 3144. Failure to provide this information may result in delay or rejection of compensation.



# INSTRUCTIONS FOR COMPLETING FORM DOJ-3

## PART II - ATTENDANCE CERTIFICATION

Section B of Part II must be signed by a Federal employee of the office who can attest the appearance of the fact witness, travel companion or Federal government/military employee witness. CJA attorneys are prohibited from signing this voucher. CJA attorneys must obtain signature from the Clerk of the Court, U.S. Magistrate Judge, or Federal Public Defender, or Assistant Federal Public Defender. The Federal employee signing in this part must have a USM-376A (Signature Form) on file with the U.S. Marshals Service.

## PART III - ALLOWANCES

All receipts for expenses over \$75.00 made in Part III must be attached to the DOJ-3 before it is transmitted to the United States Marshals Service for payment. This claim for reimbursement cannot be processed until the fact witness, travel companion or Federal government/military employee witness furnishes all receipts for expenses over \$75.00 that he/she is claiming on this Fact Witness Voucher.

- All expenses over \$75.00 must have a receipt. If receipts are not provided for expenses over \$75.00, a Verification-Without-Receipt Form must be submitted.
- If the fact witness, travel companion or Federal government/military employee witness parked at an airport or has not yet paid his/her hotel/motel bill or other item requiring a receipt, it will be necessary for the fact witness, travel companion or Federal government/military employee witness to send his/her receipts, a letter signed by the fact witness, travel companion or Federal government or military employee witness requesting reimbursement of expenses, and a copy of a valid photo ID to the trial office. The DOJ-3 must not be handled by the fact witness, travel companion, or Federal government/military employee witness other than for signature purposes.
- If the fact witness, travel companion or Federal government/military employee witness departs the trial district and does not sign the DOJ-3, a letter signed by the fact witness, travel companion or Federal government or military employee witness requesting reimbursement of expenses and a copy of a valid photo ID must be sent to the trial office. The DOJ-3 must not be handled by the fact witness, travel companion, or Federal government/military employee witness other than for signature purposes.
- Gratuities are limited to taxi and shuttle services up to 15% of the total fare.
- In Section F. (Meals and Lodging), you must manually calculate  $\frac{3}{4}$  M&IE for Federal/Military Employee or  $\frac{1}{2}$  M&IE for non-Federal/Military Employee. M&IE is based on the Federal Travel Regulations.

## PART IV - CERTIFICATION

Verify that all items under Part III are correct. Any changes to Part III must be effected and signed by the Federal government employee assigned to assist the fact witness, travel companion, or Federal government/military employee witness. The fact witness, travel companion, or Federal government/military employee witness must sign his/her full legal name and provide the date the DOJ-3 is signed. If the fact witness, travel companion is not a United States citizen, the fact witness or travel companion must show proof of his/her legal residence status or visitor status.

## PART V - CLAIM VERIFICATION

Part V must be signed by a Federal government employee of the requesting office validating the accuracy and completeness of the expenses claimed by the fact witness, travel companion before the voucher is transmitted to Justice Management Division (Federal government/military employee witness only) or the U.S. Marshals Service for payment. The Justice Management Division (Federal government/military employee witness only) or the U.S. Marshals Service will process the Fact Witness Voucher and MAIL payment to the fact witness, travel companion, or Federal government/military employee witness at the address indicated on the first page of this voucher. International fact witnesses and international travel companions are paid on-the-spot, prior to departing from the United States.

## FORM DISTRIBUTION:

Original - USMS Financial System

Copy 1 - Government Employee Signing in Part V (Claim Verification)

Copy 2 - USMS District Office in Witness' Location (if applicable)

Copy 3 - Fact Witness, Travel Companion, or Federal Government/Military Employee Witness