Tab 13

UNITED STATES DISTRICT COURT
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Chambers of
DALE S. FISCHER
United States District Judge

MEMORANDUM

TO: CJA TRIAL PANEL ATTORNEYS

FROM: HON. DALE S. FISCHER, CHAIR
CRIMINAL JUSTICE ACT COMMITTEE

RE: FORMAT OF COMTEMPORANEOUS
TIME AND ATTENDANCE RECORDS

DATE: FEBRUARY 1, 2013

As you know, the Criminal Justice Act requires investigative, expert, and other service providers, to maintain "contemporaneous time and attendance records for all work billed by them, as well as expense records." These "records are subject to audit and must be retained for three years after approval of the appointed counsel's or the service provider's final voucher, whichever is later," for an appointment. CJA Guidelines, Volume 7, Part A, Chapter 2, § 320.90. The CJA does not specifically describe the format to be followed, which has made it difficult to document work performed or otherwise to audit records uniformly. Therefore, the Court's Criminal Justice Act Committee has decided to clarify its requirements and standardize the format for all CJA case time and attendance and expense records.

The CJA Committee has determined that – beginning March 1, 2013 – contemporaneous time and attendance records must be kept in the following format:

1. Time must be recorded for all CJA cases on a daily basis in a single document. In other words, a single document must reflect all work done in a single day for all CJA cases, rather than in a separate document for each client.
2. The record must indicate the specific timeframe when each type of service was performed. For example, you would indicate that from 8:30 to 9:30 you met with defendant Smith, from 9:30 to 9:35 you communicated with the assigned CJA

counsel on U.S. v. Jones, etc.

3. The time must be recorded as close as possible to the time when the services were performed.
4. Service Providers must document the time spent on discrete tasks, rather than "block billing." As you know, you are already required to identify the time spent on discrete tasks within categories of services on the invoices that you attach to the CJA 21 and CJA 31 forms. § 310.40.
5. The contemporaneous records should reflect all time spent on Criminal Justice Act matters (whether trial, habeas, or appellate panel, and in all federal courts).

Per § 310.65.30 and GO 97-07, you must not bill time in such a way that you have billed for more time in any day than you actually spent performing CJA services for that day. Maintaining your records as described will assist you in insuring accurate billing and allow for an accurate and effective audit, should an audit be performed.

We understand that many service providers already keep their contemporaneous time and attendance records in this format, and that there are a number of computerized time-keeping programs that can record time in this fashion. Service providers who do not use computers for timekeeping can keep the same type of records manually.

This will not impact the way vouchers are submitted. The contemporaneous time and attendance records would only be provided on request. Therefore, you may maintain a single record for both CJA and retained cases – and redact information not requested in an audit, if appropriate.

Thank you in advance for your cooperation. Please contact Cynthia Dixon if you have any questions.