Tab 7

Chambers of
DALE S. FISCHER
United States District Judge

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION
255 E. Temple Street, Suite 830
Los Angeles, CA 90012-3332
Tel: (213) 894-7115
Fax: (213) 894-5676

SOUTHERN DIVISION
411 West Fourth Street, Suite 1053
Santa Ana, CA 92701-4516
(714) 338-4570

EASTERN DIVISION
3470 Twelfth Street, Suite 134
Riverside, CA 92501-3801
(909) 328-4450

To: CJA Trial Panel Attorneys

From: Judge Dale S. Fischer, Chair, CJA Committee

Date: January 26, 2016

Re: New Voucher Submission Process

Circuit Judge Milan D. Smith, Jr. has informed us that we must make some changes to the voucher submission process in cases that exceed the statutory maximum ($10,000 for felony cases as of January 1, 2016). Please review the information below detailing those changes, which will take effect on February 1, 2016.

Previously we required that certain information be submitted *with the final voucher* in every case that exceeded the statutory maximum, including a completed CJA-26 form and a breakdown and explanation of hours billed by category. This information was required in order to justify both that the case was either "extended" or "complex," and that the hours claimed had been "reasonably expended completing work necessary for adequate representation." See In re Smith, 586 F.3d 1168, 1175 (9th Cir. 2009)(Tallman, R.). Judge Smith recently advised that he will now review all *interim vouchers* once the statutory maximum has been exceeded. See 18 U.S.C. § 3006A(d)(3); *Guide to Judiciary Policy* Vol. 7A, § 230.23.40(b). The question of whether a case is "extended or complex," as required for compensation above the statutory maximum, will be determined with the first voucher taking the case over the threshold. But Judge Smith will determine whether the additional hours claimed in each subsequent voucher were reasonably expended completing work necessary for adequate representation.

Therefore, the information you were previously required to submit at the end of the case must now be submitted with the first voucher taking the case over the statutory maximum. (For pending cases already over that amount, this information will be required with the

next voucher submitted in the case.) You will then need to supplement that information with every subsequent voucher you submit regardless of the number of hours claimed during that period.

To help clarify exactly what is required, and to consolidate various documents and pieces of information into one place, we have created a new form designed to replace the existing CJA-26 and all other supplemental material we have been requiring with final vouchers (e.g., the breakdown of hours by category and required explanations). I attach a blank version of this form for your reference. It may seem long, but it does not substantially add to what we have been requiring in every case that exceeds the statutory maximum. Nor must every section of the form be completed at once; some sections will be used for the initial submission, and other sections will be completed only for subsequent vouchers, if applicable.

The goal of the form is not to create unnecessary busywork, or to make you restate or summarize everything in your voucher worksheets. Rather, it is to prompt you to highlight what has occurred during the voucher time frame that supports the two findings that must be made for compensation claims that exceed the statutory maximum: (1) that the case is extended or complex; and (2) that the hours claimed were reasonably expended completing work necessary for adequate representation.

Most of the form should be completed the first time it is submitted, which should be with the first voucher taking the case over the statutory maximum.[1] Once you have completed the form, save a copy of it. The next time you submit a voucher in the same case, use the saved version of the form, and update two brief sections (Sections II and IV). If anything new has occurred during the period of service that further supports the claim that the hours expended were reasonable, etc., add a note in the relevant section of the form.

We appreciate your cooperation in adopting this new form. If you have questions about the new form or the timing of its use, or suggestions for its improvement, please contact Cynthia Dixon.

[1] In pending cases that have already exceeded the statutory maximum, you will need to submit this new form with the next voucher you submit.