

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

In the Matter of ) GENERAL ORDER NO. 08-08  
PLAN FOR THE COMPOSITION, )  
ADMINISTRATION, AND MANAGEMENT ) (Amends section III of General  
OF THE PANEL OF PRIVATE ATTORNEYS ) Order 07-06)  
UNDER THE CRIMINAL JUSTICE ACT )  
\_\_\_\_\_ )

IT IS HEREBY ORDERED that General Order 07-06, section III, be amended as follows:

III. MEMBERSHIP ON PANEL

Panel attorneys appointed by the Court serve at the pleasure of the Court, as membership is a privilege and not a proprietary right. As such, a member of the CJA Panel may be subject to suspension or removal from the panel at any time, as well as to other appropriate action or non-reappointment. Not later than four months prior to the scheduled termination of a panel attorney's term of appointment, the Chair of the CJA Committee, or if delegated to do so by the Chair, the CJA Supervising Attorney, shall elicit information (favorable and unfavorable) about that attorney's professional performance from District and Magistrate Judges, the CJA Supervisory Attorney, the Federal Public Defender and the members of the Selection Panel.

A. Grounds for Suspension, Removal or Non-Reappointment

1. Summary Removal from the CJA Panel

Pursuant to the Court's responsibilities to assure compliance with the Sixth Amendment and notwithstanding Local Rule 83-3.1.9, which applies to suspension or disbarment from membership and the rolls of attorneys admitted to practice in this Court, in the event that a panel attorney is suspended or disbarred from the practice of law by any state or federal court, or is convicted of a felony or of any misdemeanor involving moral turpitude, the Court shall summarily remove that individual from the CJA Panel and that attorney shall not be appointed to represent future indigent defendants. The Court shall immediately notify the panel attorney of the action taken and the reasons therefor. The attorney's representation of then-existing panel clients shall be governed by section A.3 of this General Order.

2. Other Grounds for Suspension, Removal or Non-Reappointment

Suspension, removal or non-reappointment may result if the District Court determines that a panel attorney has failed to fulfill the obligations of panel membership or has engaged in other conduct warranting such action. The procedures governing such measures are set forth in section B of this General Order. In addition to the grounds for summary removal mentioned in the

preceding paragraph, grounds for suspension, removal or non-reappointment may include, but are not limited to, inclusion of false or misleading information in CJA vouchers, unjustified or frequent failure to comply with the obligation to accept appointments, failure to comply with the eligibility requirements for membership, failure to comply with the applicable CLE requirements, violation of applicable Rules of Professional Conduct, violation of the rulings or orders of a judicial officer, failure to provide assistance of counsel within the standards of the Sixth Amendment of the United States Constitution, general lack of professional competence, and mental or emotional instability affecting professional responsibilities.

3. Representation of Existing Clients Following Suspension, Removal or Non-Reappointment

(a) Any panel attorney who is suspended or removed from the CJA Panel and any panel attorney whose application for renewed membership is denied (*i.e.*, the attorney applies for reappointment but is not reappointed following the completion of his term of appointment) shall file a document entitled “Notice of Suspension, Removal or Non-reappointment” in the pending case. The Notice shall state that unless the assigned judge permits or orders the attorney to remain counsel of record, the attorney will be replaced by another Panel attorney. The

panel attorney shall file the Notice within seven calendar days after the Court or the CJA Supervising attorney notifies him or her in writing of such suspension, removal or non-reappointment, and the attorney shall serve a copy of the Notice on the client. The client may request the Court to allow the attorney to continue to represent him or her, but the court has no obligation to grant such a request. If the court receives no such request from the client within fourteen (14) days of the panel attorney's service of the above Notice, or if the court denies the client's request, a successor panel attorney will be appointed. Until the successor attorney has been appointed, the initial attorney must continue to represent the panel client.

(b) Nothing in the preceding subsection may be deemed to preclude a judge, acting *sua sponte*, from ordering that an attorney whose membership on the panel has been terminated may nevertheless continue to represent the client, provided the termination did not result from disciplinary proceedings or from a failure to provide representation in the manner required by the Sixth Amendment.

4. Representation of Existing Clients upon Voluntary Withdrawal from the Panel

Any panel attorney who voluntarily withdraws from the Panel or does not seek reappointment following the completion of his or her term of membership shall file a document entitled "Notice of Non-Membership on CJA Panel" stating

that he or she is not or no longer will be a member of the Panel. The attorney shall serve this Notice on the client. The attorney will have the duty to continue representing the client without compensation from the Court, unless the assigned judge approves a substitution of counsel.

B. Complaints and Investigations

1. Complaints

Judicial Officers, the CJA Supervisory Attorney and the Federal Public Defender may communicate a complaint about a panel attorney to the Chair of the CJA Committee in writing, telephonically, via email or in person. Other persons, including client-defendants, shall set forth any complaint in writing, and submit it to the chairperson of the CJA Committee. The complaint should describe with particularity the matter(s), conduct and circumstances triggering the complaint. Documents, transcripts or other materials may be submitted in support of the complaint. The Committee will not suspend, remove or decline to reappoint a panel attorney from the panel in response to a complaint by a client, unless the panel attorney was provided with a reasonable opportunity to respond to the complaint.

2. Investigations

The CJA Committee shall determine whether, and if so in what manner, it will investigate a complaint, according to the circumstances. Where warranted,

the panel attorney will be given a reasonable opportunity to respond to the complaint.

3. Determinations

The CJA Committee in its discretion shall determine what, if any, action shall be taken in response to a complaint or other notice of a panel attorney's failure or inability to adhere to the requirements of membership on the panel. The decision of the Committee shall be final.

Nothing in the foregoing provisions may be deemed to limit the fact that membership on the Panel is a privilege and not a proprietary right.

4. Re-Application and Reinstatement

Any attorney removed from the Panel or whose membership is not renewed may file a new application with the CJA Panel Selection Committee. No such application will be granted by the CJA Committee until at least one full calendar year has elapsed from removal or non-reappointment.

5. Confidentiality

Except as otherwise provided above, all proceedings involving suspension, removal or non-reappointment shall be confidential, other than the outcome.

Dated: August 14, 2008