

CJA INTERIM PAYMENT PROCEDURE

Each attorney requesting interim payments will need to submit their own request. A motion for interim payments is submitted to the Court through the CM/ECF. All interim payment motions and Orders must also indicate whether the case is extended or complex and whether the interim payment is for their defendant only. The attorney will use the standard Order provided in the CJA Guidelines §230.73 Appendix 2C (Procedure for Interim Payments to Counsel in Non-Death Penalty Cases). Our court follows Option B, but we omit the 20 percent withholdings.

Procedure: The attorney would submit a motion and Order for Interim Payment through CM/ECF. **The attorney must include in the motion and Order that the interim payment is only for his/her client only.** When approved the Judge and Circuit Judge or his/her delegate would sign the Order authorizing the quarterly interim payments. The Order will be filed in CM/ECF. All quarterly interim payments shall be submitted through CJA eVoucher and the Order must be uploaded to the document page in .pdf format to the first interim payment.

Excess: When counsel knows he/she will exceed the statutory limit they will complete the CJA 26 form in eVoucher and include the payment amount they are requesting. The interim Order and CJA 20 voucher should be uploaded on the document page in .pdf format with the CJA 26 form. The Judge and Circuit Judge or his/her delegate would review the CJA 26 for approval.

When the Court deems the entire multi-defendant case is extended or complex and all CJA panel attorneys must file interim payments.

When the Court determines the entire case is extended or complex all defendants represented by CJA attorneys will receive quarterly interim payments. All CJA attorneys **MUST** file an interim payment. You must show good cause why you would want to opt of the interim payment and have Court approval.

Procedure: One of the Panel Attorneys files a motion for the entire case to become interim payment. **The attorney must include in the motion and Order that the interim payment is for all defendants represented by CJA panel attorneys and all counsel are required to submit quarterly interim payments.** When approved the Judge and Circuit Judge or his/her delegate would sign the Order authorizing the quarterly interim payments. The Order will be filed in CM/ECF. All quarterly interim payments shall be submitted through CJA eVoucher and the Order must be uploaded to the document page in .pdf format to the first interim payment.

Excess: When counsel knows he/she will exceed the statutory limit they will complete the CJA 26 form in eVoucher and include the payment amount they are requesting. The interim Order and CJA 20 voucher should be uploaded on the document page in .pdf format with the CJA 26 form. The Judge and Circuit Judge or his/her delegate would review the CJA 26 for approval.

Note: Interim Payments that were paid up to **April 30, 2015** for the transition into eVoucher are not considered quarterly interim payments. Once you have been approved for quarterly interim payments your first interim number should be one.

Interim Payment Schedule:

- January 1 – March 31 voucher must be submitted to the Court by April 15
- April 1 – June 30 voucher must be submitted to the Court by July 15
- July 1 – September 30 voucher must be submitted to the Court by October 31
- October 1 – December 31 voucher must be submitted to the Court by January 15

230.23.40 Waiving Case Compensation Maximums

(a) Overview

Payments in excess of CJA compensation maximums may be made to provide fair compensation in cases involving extended **or** complex representation when so certified by the court or U.S. magistrate judge and approved by the chief judge of the circuit (or by an active or senior circuit judge to whom excess compensation approval authority has been delegated).

(b) Extended or Complex Cases

The approving judicial officer should first make a threshold determination as to whether the case **is either** extended or complex.

- If the legal or factual issues in a case are unusual, thus requiring the expenditure of more time, skill, and effort by the lawyer than would normally be required in an average case, the case is "complex."
- If more time is reasonably required for total processing than the average case, including pre-trial and post-trial hearings, the case is "extended."

(c) Determining Fair Compensation

After establishing that a case is extended or complex, the approving judicial officer should determine if excess payment is necessary to provide fair compensation. The following criteria, among others, may be useful in this regard:

- 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.

§ 230.73 Interim Payments to Counsel

§ 230.73.10 Non-Death Penalty Cases

- (a) Where it is considered necessary and appropriate in a specific case, the presiding trial judge may arrange for periodic or interim payments to counsel.
- (b) [Appx 2C](#) (Procedures for Interim Payments to Counsel in Non-Death Penalty Cases) contains instructions on the procedures for effecting interim payments to counsel, and a sample memorandum Order on this subject that provides for two alternative payment methods.
- (c) The payment options provided in [Appx 2C](#) are designed to strike a balance between the interest in relieving court-appointed attorneys of financial hardships in extended and complex cases, and the practical application of the statutorily imposed responsibility of the chief judge of the circuit to provide a meaningful review of claims for excess compensation.
- (d) Other interim payment arrangements which effectuate this balance may be devised in consultation with the AO Defender Services Office.