

# UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

## CRIMINAL JUSTICE ACT POLICIES AND PROCEDURES



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**UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT**  
**CJA Voucher Submissions Instructions and Policies**

**Contents**

I. General Statutory Provisions and Procedures .....	1
II. Fifth Circuit CJA Administrative Staff .....	1
III. Seeking Compensation through the eVoucher System .....	1
a. eVoucher login .....	1
b. Single login profile .....	2
IV. eVoucher Supporting Documentation .....	2
a. Attorney certification .....	2
b. Petition for certiorari .....	2
c. CJA 27 or memorandum in support .....	2
d. Untimely vouchers (45 day letter) .....	2
e. Expense receipts .....	2
V. Voucher submission - Timeliness.....	3
VI. Case Compensation Maximums and Hourly Rates .....	3
VII. Exceeding the Case Compensation Maximum .....	3
a. Non-capital cases .....	3
b. Capital cases .....	3
VIII. Voucher Audit and Reasonableness Review .....	4
a. Compensability .....	4
b. Reasonableness .....	4
c. In court time .....	5
d. Travel time .....	5
e. District court work .....	5
f. Expenses .....	5
IX. Voucher Reduction Procedures .....	5
X. Contemporaneous Billing Records .....	5
XI. Transcript Orders .....	5
XII. Travel Arrangements and Expense Reimbursement .....	6
a. Travel authorizations .....	6
b. Travel reservations .....	6
c. Travel by private automobile .....	6
d. Travel expenses .....	6
XIII. Other Reimbursable Expenses .....	7
a. Copying and binding .....	7
b. Postage .....	7
XIV. Non-reimbursable Expenses .....	7
a. General office overhead .....	7
b. Personal expenses for client .....	7

c. Filing, court admission, and PACER fees .....	8
XV. Case Budgeting .....	8
a. Non-capital cases .....	8
b. Capital cases .....	8
XVI. Associate Counsel - no appointment .....	8
a. Without prior authorization .....	8
b. With prior authorization .....	8
c. Limitations .....	9
d. Compensation .....	9
XVII. Appointment of Additional Counsel .....	9
XVIII. Expert, paralegal, or other service provider services .....	9
a. Without pre-authorization .....	9
b. With pre-authorization .....	9
XIX. Record Keeping .....	10
Appendix/Voucher best practices .....	i-iii

## **I. General Statutory Provisions and Procedures**

The Criminal Justice Act, 18 U.S.C. § 3006A (CJA), provides for the appointment and compensation of attorneys to represent financially eligible defendants in federal criminal proceedings. The CJA provides for reimbursement of reasonable out-of-pocket expenses, and for funding for experts and service providers necessary for an adequate defense. Appointment of counsel and funding for providers in capital cases are governed by 18 U.S.C. § 3005 and 18 U.S.C. § 3599.

Counsel appointed to represent a defendant on appeal should be familiar with the statutory framework and the *Guide to Judiciary Policy, Vol. 7A* (CJA Guidelines), the Fifth Circuit's Plan for Representation on Appeal under the Criminal Justice Act (Fifth Circuit CJA Plan), and the Instructions and Policies contained in this document, all of which contain policies and guidance on representation, fee compensation, and expense reimbursement.

Attorneys appointed to an appellate representation are expected to be familiar with and adhere to the Federal and Fifth Circuit Rules of Appellate Procedure and the guidelines for perfecting an appeal under *Anders v. California*, which are located under the RULES AND PROCEDURES tab on the Court's website.

The policies contained herein apply to fee compensation and expense reimbursement in cases on appeal in the Fifth Circuit.

## **II. Fifth Circuit CJA Administrative Staff**

The Fifth Circuit has a Circuit CJA Case Budgeting Attorney, a CJA Administrative Attorney, and a CJA Administrative Analyst who are available to assist with questions pertaining to CJA budgeting, compensation, and eVoucher processing. CJA staff may be reached by email or telephone:

[cja\\_request@ca5.uscourts.gov](mailto:cja_request@ca5.uscourts.gov) or (504) 310-7799

## **III. Seeking Compensation through the eVoucher System**

The eVoucher system is the judiciary's method for submission and payment of CJA attorney, expert, and service provider fees and expense reimbursement.

### **a. eVoucher login**

As of Fall 2024, users sign into eVoucher with a login.gov account. Once the login.gov account is linked with an attorney's eVoucher account, sign in will be through login.gov. Instructions on

creating a login.gov account and signing on to eVoucher are on the CJA page of the Court's website.

**b. Single login profile**

eVoucher uses a Single Login Profile, which allows users to link different court accounts (e.g. district and circuit) and to switch from one to another without having to log in and out of the eVoucher system. Attorneys practicing in more than one jurisdiction should be sure that the voucher is being submitted to the appropriate court's system, i.e., in the Fifth Circuit for work on an appeal; in the district court for work performed in the district court.

**IV. eVoucher Supporting Documentation**

The following documentation must be provided in support of appellate vouchers. Each document should be uploaded as a separate pdf to the documents tab of eVoucher. If the necessary documents are not submitted, the voucher will be rejected back to counsel to provide missing documents, which will delay processing of the voucher for payment.

**a. Attorney certification**

Attorneys must submit a certification form certifying all work was performed by counsel or clearly identifying work by anyone else. The attorney certification form can be found on the CJA page of the Court's website.

**b. Petition for certiorari**

If counsel seeks compensation for preparation of a petition for writ of certiorari, a copy of the petition and responsive pleadings must be provided with the voucher to allow for review.

If certiorari is granted, time spent for briefing, oral argument, and all proceedings in the Supreme Court will be submitted for payment to the Supreme Court.

**c. CJA 27 or memorandum in support of excess fees**

Vouchers in non-capital cases that exceed the applicable statutory case compensation threshold must be supported by a memorandum or CJA 27 form. *See Sec. VI.*

**d. Untimely vouchers (45-day letter)**

Vouchers should be submitted no later than 45-days after the representation concludes, unless good cause is shown. CJA Guidelines § 230.13. Vouchers submitted after 45 days have elapsed should be accompanied by a letter or memo explaining good cause for the delay. *See Sec. V.*

**e. Expense receipts.**

Receipts are required for: outside copy services regardless of the amount; travel expenses, regardless of the amount; and any single item over \$50.

## **V. Voucher Submission - Timeliness**

Vouchers should be submitted no later than 45 days after the representation concludes absent a showing of good cause. Vouchers exceeding 45 days should be accompanied by a letter or memorandum in eVoucher explaining good cause for the delay. CA Guidelines § 230.13.

Final disposition of the appeal is the later of: (a) the date the decision becomes final or the appeal is otherwise terminated, if no petition for certiorari will be filed; (b) the date a petition for certiorari is filed or denied; or (c) the date an order is filed granting counsel permission to withdraw if the defendant will proceed *pro se* or if substitute counsel is appointed or retained.

## **VI. Case Compensation Maximums and Hourly Rates**

The CJA sets hourly attorney compensation rates and places case compensation limitations on attorney fees in non-capital cases. The current case compensation maximums applicable in non-capital cases are located at [CJA Guidelines § 230.23.20](#). The hourly rate and effective dates in non-capital cases are located at [CJA Guidelines § 230.16](#). The hourly rate and effective dates in capital cases are located at [CJA Guidelines § 630.10.10](#).

## **VII. Exceeding the Case Compensation Maximum**

### **a. Non-capital cases**

Payment above the case compensation maximum may be approved if the representation is “extended or complex” and the amount certified is necessary to provide fair compensation. 18 U.S.C. § 3006A(d)(3); CJA Guidelines § 230.23.10(3).

Vouchers exceeding the case compensation maximum must be supported by a memorandum or CJA 27 submitted in eVoucher explaining why (1) the representation was extended or complex, and that (2) excess payment is necessary for fair compensation. A case is “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. A case is “extended” if more time is reasonably required for the total proceeding than the average case. CJA Guidelines § 230.23.40.

### **b. Capital cases**

There is no statutory case compensation limit and no formal or informal budgetary cap on attorney fees in capital cases. 18 U.S.C. § 3599; CJA Guidelines § 630.10.20; § 635.

## **VIII. Voucher Audit and Reasonableness Review**

All vouchers are subject to audit and reasonableness review. Under CJA Guidelines § 230.33.10, voucher reductions are limited to the following reasons:

- (1) Mathematical errors,
- (2) Instances in which work billed was not compensable,
- (3) Instances in which work was not undertaken or completed, and
- (4) Instances in which the hours billed are clearly in excess of what was reasonably required to complete the task.

### **a. Compensability**

Non-compensable tasks include clerical or administrative tasks that are deemed general office overhead, so are part of the hourly rate and not separately compensable regardless of who performs the work. Examples include but are not limited to printing documents, making copies, preparing mailings, dropping off or arranging mailings or copies, filing or checking ECF notices.

Counsel are expected to be familiar with local rules and practices, the Federal and Fifth Circuit Rules of Appellate Procedure, and Supreme Court rules and should not claim time for looking up practice rules.

Counsel should review and adhere to the guidance found in the Best Practices in the attached Appendix, and to the CJA Guidelines.

### **b. Reasonableness**

Counsel should provide adequate information in the time entry description to enable the auditor to determine the representational purpose of the work and the reasonableness of the time claimed. Failure to do so may result in requests for additional information, which delays processing of the voucher for payment. Generalized descriptions such as “transcript review” or “drafting brief” do not provide sufficient detail and may result in a request for additional information or rejection of the voucher for more information, and delay the processing of the voucher. Counsel should include details such as sections of transcript or pleadings that were reviewed, sections of the brief counsel drafted or edited, and the area of research.

Counsel are advised to avoid excessive billing for tasks that do not take six minutes. For instance, time spent looking at pro forma orders, minute entries, transcript order responses, etc., that take less than six minutes to review should be aggregated to accurately reflect the time actually spent.

**c. In court time**

Counsel should take care to bill “in court” time only for time actually spent in court. Time spent waiting, preparing, meeting with opposing counsel, counsel for co-appellants, or clients should be recorded in the appropriate e-Voucher service category.

**d. Travel time**

Compensable travel time includes only those hours actually spent in or awaiting transit. Time spent on substantive work (document review, drafting memos or pleadings, etc.) should be recorded in the appropriate e-Voucher service category.

**e. District court work**

Work performed in the district court, whether prior to or during the appeal, must be claimed on a voucher submitted to that court and not on the appellate voucher submitted in the circuit. If a case is remanded for further proceedings, a new appointment will be created in the district court and billing will be submitted to that court.

**f. Expenses**

Reimbursable expenses reasonably incurred and properly documented should be recorded in the expense section of the eVoucher. Receipts should be uploaded in the documents tab. *See, Sec. XII* for important information on expense claims and travel authorizations.

**IX. Voucher Reduction Procedures**

Vouchers are subject to reasonableness reductions where the time claimed appears to exceed that necessary to complete the work. If a reduction is proposed, counsel will be sent a letter explaining the proposed reduction, and will be provided an opportunity to provide additional information or seek reconsideration of the proposed reduction.

**X. Contemporaneous Billing Records**

Counsel are required to maintain contemporaneous billing records for all work performed whether by counsel, associates, paralegals, or support staff. The records are subject to audit and must be retained by counsel for three years after approval of the voucher. CA Guidelines § 230.13.

**XI. Transcript Orders**

Appointed counsel must make financial arrangements with court reporters to obtain necessary transcripts. Counsel should submit transcript authorization requests and CJA 24 payment vouchers through the district court CJA eVoucher system. Counsel should contact the CJA administrator in the



originating district court with any questions about that district's processing of CJA 24 vouchers. *See* Fifth Circuit CJA Plan Section 6, Duties of Appointed Counsel.

Counsel requesting supplemental or additional transcripts for the appeal must file a motion request. Once approval is granted, counsel must make financial arrangements to obtain the transcripts by submitting CJA 24 vouchers in the originating district court.

## **XII. Travel Arrangements and Expense Reimbursement**

Attorneys may be compensated for time spent in or awaiting transit. CJA Guidelines § 230.60. This includes travel for oral argument and time to meet and confer in person with the client. Travel must be by the most economical method of transportation, travel time and expenses considered.

### **a. Travel authorizations**

Counsel must seek prior authorization for overnight travel and car travel over 4 hours round trip, whether for oral argument, client meetings, or other representational purpose. Contact [cja\\_travel@ca5.uscourts.gov](mailto:cja_travel@ca5.uscourts.gov) for travel authorizations.

### **b. Travel reservations**

Air travel, lodging, and car rental, if authorized, can be booked at government rates through National Travel Service. Information about booking through National Travel is provided in the travel authorization.

*Note:* Travelers may not be reimbursed for transportation, lodging, or other travel-related expenses purchased with non-cash promotional benefits (e.g., points, miles). *Guide to Judiciary Policy*, Vol 19, Ch.4. [Judiciary Staff Travel Regulations | United States Courts](#)

### **c. Travel by private automobile**

Mileage is reimbursable at the rate prescribed for federal judiciary employees conducting official business.

### **d. Travel expenses**

Reimbursable expenses are claimed in eVoucher. Itemized receipts must be provided for meals, lodging and all other travel expenses. Credit cards slips or statements will not suffice. Meals and lodging are reimbursed at or below the [GSA per diem rate](#).

Travel for more than one representation should be prorated; the case number for each case should be provided in eVoucher.

The following expenses are not reimbursable:

- Expenses beyond the dates in the travel authorization
- alcoholic beverages
- charges for persons other than appointed counsel
- flight upgrades

### **XIII. Other Reimbursable Expenses**

#### **a. Copying and binding**

In-house copying is reimbursed at the actual cost, not to exceed \$0.15/page. In-house copy expenses must be itemized.

Commercial copy service is reimbursed at no more than \$0.25/page and must be supported by an itemized receipt.

Commercial copying charges to prepare 40 copies of a petition for certiorari in booklet format **will not be reimbursed** because this requirement may be waived upon proper filing of a motion to proceed *in forma pauperis*, see S. Ct. Rules 12, 33.2 and 39.

If counsel needs to provide a copy of the file, transcripts, record on appeal, or other voluminous records to the client, counsel should contact Circuit CJA Administrative Staff to obtain preapproval of what may be an extraordinary expense. Generally, counsel should ascertain rules at the designated BOP institution for quantities and formats of materials the inmate can receive and the mailing policies for bulk materials. Counsel should obtain quotes from a commercial copier for double sided copies, and where possible, 4-page to a page transcript formatting.

#### **b. Postage**

Mailing must be accomplished by the most economical means possible and claimed on an actual expense basis. In non-capital cases, overnight or one-day shipping is not reimbursable. Receipts are required for all claims over \$50. Overnight mailing is reimbursable in capital cases.

### **XIV. Non-reimbursable Expenses**

#### **a. General office overhead**

General office overhead is not reimbursable. This includes, but is not limited to: supplies, overtime, rent, telephone, cell phone, internet services, mailers/envelopes, secretarial services, and other administrative/clerical services.

#### **b. Personal expenses for client**

The cost of items of a personal nature purchased for or on behalf of the person represented is not

reimbursable.

**c. Filing, court admission, and PACER fees**

Filing fees and court admission fees are not reimbursable. This includes filing fees related to a petition for certiorari because such fees may be waived upon proper filing of a motion to proceed *in forma pauperis*, see S.Ct. Rules 12, 33.2 and 39. PACER charges are not reimbursable because upon proper application, CJA counsel is entitled to a free PACER account for use in CJA cases. CJA Guidelines § 230.66.30. PACER account information may be accessed here: <https://pacer.uscourts.gov/help/cmecf>

**XV. Case Budgeting**

Attorneys appointed in capital cases or to non-capital cases that may be extraordinary in terms of fees should contact the circuit CJA Case Budgeting Attorney Margaret Alverson to discuss a budget. [Margaret\\_alverson@ca5.uscourts.gov](mailto:Margaret_alverson@ca5.uscourts.gov) / 504-310-7799.

**a. Non-capital cases**

Case budgeting is encouraged in complex or extended representations that appear likely to become or have become extraordinary in terms of potential cost (ordinarily, a representation in which counsel expects to exceed 300 hours).

**b. Capital cases**

All capital cases should be budgeted. CJA Guidelines § 640.

**XVI. Associate Counsel - no appointment<sup>1</sup>**

**a. Without prior authorization**

Counsel may claim compensation for work by a partner or associate within their firm without seeking prior authorization. *But see, XVI (c)*. Please note that work should be delegated and unnecessary duplication of effort should be avoided. Inefficiencies resulting from use of associates, such as task assignment and attorney conferencing, are not compensable.

**b. With prior authorization**

Counsel may seek by motion approval for the assistance of an associate who is not a partner or associate of counsel's firm. Counsel may seek approval for use of an associate without a separate appointment either by stand-alone motion or through an attorney fee budget for the case.

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<sup>1</sup> CJA Guidelines § 230.53.10.

**c. Limitations**

Appointed counsel is expected to take the lead role in preparation of the briefs. Appointed counsel must appear at oral argument unless the court of appeals directs otherwise. An associate who does not have a separate appointment may not present oral argument except under the most pressing and unusual circumstances. Fifth Circuit CJA Plan Sec. 6.

**d. Compensation**

Fees for an associate who is not separately appointed may be claimed on counsel's voucher if the associate is with the firm, but the time entries must identify who performed the work by noting each person's initials. Associates who are not with the firm and who do not have a separate appointment will seek compensation on a CJA 20 or 30.

**XVII. Appointment of Additional Counsel**

In an extremely difficult case where the court finds it in the interest of justice to appoint an additional attorney, each attorney is eligible to receive the maximum compensation allowable under the CJA. CJA Guidelines § 230.53.20; Fifth Circuit CJA Plan Sec. 6. Appointment of co-counsel should be sought on motion filed with the clerk's office.

**XVIII. Expert, paralegal, or other service provider services**

Appointed counsel may obtain paralegal, expert, or other services necessary for adequate representation in accordance with the procedures set forth in 18 U.S.C. § 3006A (e) (non-capital cases); § 3599 (f), (g) (capital cases). Services must be claimed on a CJA 21 or 31 voucher.

**a. Without pre-authorization**

Services up to \$1,000 in fees (as of 2025) for the entire representation, all services combined, may be expended without pre-approval.

**b. With pre-authorization**

Counsel must seek pre-approval where total costs of service fees, excluding expenses, are expected to exceed \$1,000.

Pre-authorization for fees up to \$3,000 (as of 2025) for services for any one provider, exclusive of expenses, may be requested via email request to [cja\\_request@ca5.uscourts.gov](mailto:cja_request@ca5.uscourts.gov).

If the amount is expected to exceed \$3,000 for any one provider, counsel must request pre-authorization by motion or as part of a case budget, and the amount of excess fees must be approved by the court. All such motions should be filed ex parte and under seal. 18 U.S.C. § 3006A (e).

In capital cases, fees and expenses for services in excess of \$7,500 for the representation must be approved by the court. Pre-approval should be sought by motion, which may be filed ex parte based on a proper showing of the need for confidentiality. 18 U.S.C. § 3599 (f), (g)(2).

#### **XIX. Record Keeping**

Appointed counsel must maintain contemporaneous time records, including records for work performed by associates, paralegals, and support staff. These records are subject to audit and must be kept for three years after the approval of the final voucher in the appointment. CJA Guidelines § 230.76

## APPENDIX

### VOUCHER BEST PRACTICES

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Compensability under the Criminal Justice Act (CJA) is governed by applicable statutes, the *Guide to Judiciary Policy, Vol. 7* (CJA Guidelines), and CJA Plans adopted by each court. Counsel are required to familiarize themselves with the governing statutes, policies and plans as well as preferences of presiding judges.

Not every task undertaken in the course of a representation is compensable. The following guidance is provided to assist appointed counsel and service providers with compensability questions. This addendum covers many common compensability situations but is not exhaustive. As a reminder, counsel and service providers are required to keep contemporaneous time records, which must be sufficiently detailed to allow for meaningful reasonableness review of the time claimed.

The following practices apply to appointed counsel and service providers including paralegals, investigators, and mitigation specialists.

#### **Compensability**

##### Administrative Tasks

Under CJA Guidelines § 230.66.10 and § 320.80.10, general office overhead, including clerical assistance, is incorporated into the authorized hourly rate for panel attorneys and service providers and is not separately reimbursable. Administrative or clerical tasks are not compensable under the Guidelines regardless of who performs them (*i.e.*, counsel, support staff, or service providers, including paralegals), except under extraordinary circumstances. § 230.66.10. Examples of tasks that generally are not compensable—no matter who performs the tasks—include, but are not limited to:

- creating a physical or electronic case file;
- viewing, accessing, downloading, opening, renaming, saving, printing, or forwarding electronic files (including notices of electronic filing in CM/ECF);
- entering calls, meetings, due dates, or court appearances in a calendar;
- rote or routine scheduling-related communications, including scheduling intra-team communications and communications with the court or opposing counsel;
- leaving non-substantive voicemail messages;
- filing or lodging electronic documents in CM/ECF;
- creating payment vouchers in eVoucher and entering or justifying billed time and expenses;
- emailing courtesy copies or proposed orders;
- copying, scanning, or printing;

- office filing;
- preparing documents for mailing; and
- and traveling to and wait time at a post office, copy center, or office supply store.

If counsel believes a task that is presumptively administrative or clerical should be considered compensable, counsel should include in their time entries an explanation as to why the task required legal knowledge, professional judgment, or otherwise involved representational strategy.

*Note:* Counsel are required to certify that services and expenses billed on a service provider voucher (CJA-21/31) were rendered and that sufficient funds are available under a court-approved budget before submitting the voucher to the court. Review of service provider vouchers for purposes of certification is compensable, but counsel should not bill for the administrative task of creating or submitting the CJA- 21/31.

### Aggregation of Tasks

Because reviewing a single ECF notice typically takes less than 0.1 hour, reviewing multiple ECF notices in a day should be aggregated into one block of time to reflect actual time spent. Counsel are expected to exercise professional judgment in billing time for reviewing ECF notices that require no substantive response, especially in multi-defendant cases where notices or filed documents may be irrelevant to counsel's specific client.

Other common tasks that should be aggregated over the course of a single day include reading and responding to emails, short telephone calls, and sending or reviewing text messages. For example, if counsel (or a service provider) spends less than 6 minutes per email in a thread or series of emails, counsel should aggregate the time spent on the entire thread or series.

Discrete tasks should be billed in separate service entries *except* those tasks taking less than 0.1 hour such as those described above, which should be aggregated.

### Intra-team Communications

Attorneys and service providers should exercise professional judgment in billing for reviewing communications and materials that do not pertain to their specific role or responsibility on the case. While defense team members need to stay informed of developments in a case, reviewing daily emails between other team members could be construed as not reasonably necessary. Sufficient detail should be provided by counsel and service providers to identify the representational purposes of the communication and its relevance to that person's particular role in the case.

Routine or rote communications that are purely administrative in nature are considered administrative overhead and are not separately compensable. Examples include checking the

availability of the court or an individual (e.g., experts, counsel for co-defendants) for the purpose of scheduling a meeting, interview, or hearing.

Communications where a scheduling-related discussion is incidental to some other case-specific topic or issue are compensable. For these types of “mixed” calls or emails, counsel’s billing entry should reference the non-administrative aspect of the communication.

### Learning Time

Counsel are expected to keep current with the law and have a working knowledge of federal criminal substantive and procedural law as well as local and federal rules of procedure. While a reasonable amount of time spent reading materials to become conversant with a case-related topic may be reimbursable in connection with effective representation in a specific CJA matter, time spent on general caselaw reading, reviewing rules of procedure, skill building, professional development, and CLE or other training events is generally not compensable. To facilitate voucher review, billing entries must provide a detailed explanation for how the work is case-specific and advances specific representational purposes. Counsel should exercise professional judgment in determining whether the time is better characterized as non-compensable self-enrichment, training, or continuing legal education.

### **Voucher Best Practices**

#### Contemporaneous Timekeeping

Guidelines § 230.76 requires appointed counsel to maintain contemporaneous time records for themselves and support staff for three years after approval of the final voucher for an appointment.

#### Sufficient Detail

Counsel and service providers should describe services in sufficient detail to allow judges and CJA staff to assess the reasonableness of the time expended.

- *Interviews and conferences*: specify with whom (client, AUSA), the type of communication (telephone, email, text exchange), and general topic
  - For intra-team communications, counsel and service providers should explain how these exchanges furthered the goals of the representation
- *Discovery and records review*: specify the type of discovery and, if applicable, the length (*i.e.*, page numbers, length of a video or audio recording, etc.)
- *Legal research and writing*: specify the issue researched or motion prepared; include docket number or explanation of why pleading was not filed



- *Travel time:* Include origin and destination and whether round trip or one-way; if time claimed is atypical, explain the cause (accident on interstate, inclement weather, etc.)
- *In-court time:* Separate out wait time, conferences with clients or AUSA