



## Connecticut Committee on Judicial Ethics

### Informal Opinion Summaries

**2018-14 (July 19, 2018)**

**Compensation; New Judge; Transition to the Bench; Disclosure/Disqualification  
Rules 1.2, 1.3 & 2.11**

**Issue:** Prior to a Judicial Official's appointment to the bench, the Judicial Official ("JO") served as a Criminal Justice Act ("CJA") panel attorney, representing indigent defendants when there was a conflict with the federal public defender's office. The Judicial Official's former law firm contacted the JO and asked the JO to complete form CJA 26 (copy attached) in support of the firm's request for additional compensation beyond the standard maximum, which the court can approve basically for good cause shown. As noted on the form, the appointed attorney must be the person who completes it. May the JO complete the form?

**Relevant Code Provisions:** Rules 1.2, 1.3 & 2.11

**Response:** Rule 1.2 of the Code of Judicial Conduct provides that a judge "shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge."

Rule 1.3 prohibits a Judicial Official from using the prestige of office to advance the Judicial Official's personal or economic interests.

Rule 2.11 states that a judge "shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned."

The issue of whether a JO may complete an affidavit in support of a fee award was previously considered by the Committee. In [JE 2013-34](#) this Committee determined that a JO could prepare and sign an affidavit regarding time spent and work performed on a lawsuit and the hourly rate requested in connection with a motion for payment of attorney's fees being submitted by successor counsel to whom a case was referred when the JO was appointed, subject to the following conditions:

1. The amount to be paid should reasonably reflect the time spent and work performed;

2. Full disclosure should be made to the client;
3. The Judicial Official should not refer to his or her judicial position in the affidavit; and
4. The Judicial Official should consider whether the decision to accept payment may necessitate the Judicial Official's disqualification to hear matters in the future involving the client or attorney to whom the case was referred.

In the instant matter, the JO will not be receiving the compensation, but rather his or her former law firm will receive the additional compensation, if approved.

Based upon this Committee's decision in [JE 2013-34](#) and the opinions cited therein, the Committee determined that it is ethically permissible for the JO to complete form CJA 26, subject to the following conditions:

1. The time claimed reasonably reflects the work performed;
2. Full disclosure should be made to the client; and
3. The JO should not refer to his or her judicial position on the form; and

The Committee noted that disqualification issues may arise should the client or the JO's former firm appear before the JO. The Committee is available should the JO have any questions about the duty to disqualify himself or herself in such a circumstance.

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**SUPPLEMENTAL INFORMATION STATEMENT FOR A COMPENSATION CLAIM IN EXCESS OF THE STATUTORY CASE COMPENSATION MAXIMUM: DISTRICT COURT**

THIS FORM PROVIDES INFORMATION TO SUPPORT COUNSEL'S CLAIM THAT THE REPRESENTATION GIVEN WAS IN AN EXTENDED OR COMPLEX CASE, AND THAT THE EXCESS PAYMENT IS NECESSARY TO PROVIDE FAIR COMPENSATION. PARAGRAPH 2.22 B(3) OF THE *GUIDELINES FOR THE ADMINISTRATION OF THE CRIMINAL JUSTICE ACT*, VOLUME VII, *GUIDE TO JUDICIARY POLICIES AND PROCEDURES*, DEFINES THE TERMS "EXTENDED" AND "COMPLEX," AND SUGGESTS CRITERIA FOR DETERMINING "FAIR COMPENSATION." THIS FORM SERVES AS COUNSEL'S MEMORANDUM REQUIRED BY PARAGRAPH 2.22 C(2) OF THOSE *GUIDELINES*, AND DOES NOT REPLACE ANY OTHER DOCUMENTATION REQUIRED TO SUPPORT THE PAYMENT REQUEST. IF EXTRA SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS OF PAPER.

ATTORNEY NAME:

CASE NAME:

DOCKET NUMBER:

DEFENDANT NUMBER:

VOUCHER NUMBER:

**1** PERIOD OF APPOINTMENT (DATES): \_\_\_\_\_ TO \_\_\_\_\_

TOTAL NUMBER OF IN-COURT HOURS: 0.00 SPECIFYING: PRETRIAL HEARINGS \_\_\_\_\_ TRIAL \_\_\_\_\_  
SENTENCING HEARINGS \_\_\_\_\_ ALL OTHER IN-COURT \_\_\_\_\_  
TOTAL NUMBER OF OUT-OF-COURT HOURS: \_\_\_\_\_

**2** OFFENSES CHARGED:

NUMBER OF COUNTS CHARGED: \_\_\_\_\_ NUMBER OF CO-DEFENDANTS: \_\_\_\_\_

OTHER PENDING CASES (DOCKET NUMBERS) OF DEFENDANT DURING REPRESENTATION:

IF APPLICABLE, SENTENCING GUIDELINE RANGE FOUND BY THE COURT FOR SENTENCING:

WAS A MANDATORY MINIMUM FOUND OR AT ISSUE AT SENTENCING? YES \_\_\_\_\_ NO \_\_\_\_\_

**3** DESCRIBE DISCOVERY MATERIALS (NATURE AND VOLUME) AND/OR DISCOVERY PRACTICES WHICH ARE A NOTEWORTHY FACTOR IN THE NUMBER OF HOURS CLAIMED:

**4** LIST AND DESCRIBE MOTIONS, LEGAL MEMORANDA, JURY INSTRUCTIONS, AND SENTENCING DOCUMENTS, OR LEGAL RESEARCH NOT RESULTING IN SUCH, WHICH ARE A NOTEWORTHY FACTOR IN THE NUMBER OF HOURS CLAIMED AND WHICH WERE DRAFTED ORIGINALLY FOR THIS CASE (DO NOT INCLUDE STANDARDIZED MOTIONS, ETC., UNLESS CONTENT WAS MODIFIED SIGNIFICANTLY):

**5** SUMMARIZE INVESTIGATION AND CASE PREPARATION (E.G., NUMBER AND ACCESSIBILITY OF WITNESSES INTERVIEWED, RECORD COLLECTION, DOCUMENT ORGANIZATION) WHICH ARE A NOTEWORTHY FACTOR IN THE NUMBER OF HOURS CLAIMED:

**6** EXPLAIN, IF NOTEWORTHY, IMPACT ON THE NUMBER OF HOURS CLAIMED OF INVESTIGATIVE, EXPERT, OR OTHER SERVICES USED (CJA 21 VOUCHER):

**7** CHECK WHETHER ANY OF THE FOLLOWING CLIENT CONSIDERATIONS ARE A NOTEWORTHY FACTOR IN THE NUMBER OF HOURS CLAIMED AND EXPLAIN EACH: COMMUNICATION WITH CLIENT/FAMILY \_\_\_\_\_ LANGUAGE DIFFERENCE \_\_\_\_\_  
ACCESSIBILITY OF CLIENT \_\_\_\_\_ OTHER \_\_\_\_\_

**8** EXPLAIN ANY EXPENSE (ITEMS 17 AND 18 OF THE CJA 20 VOUCHER) GREATER THAN \$500:

**9** EXPLAIN ANY OTHER NOTEWORTHY CIRCUMSTANCES REGARDING THE CASE AND THE REPRESENTATION PROVIDED TO SUPPORT THIS COMPENSATION REQUEST:

INCLUDE, IF APPLICABLE: (A) NEGOTIATIONS WITH U.S. ATTORNEY'S OFFICE OR LAW ENFORCEMENT AGENCY; (B) COMPLEXITY OR NOVELTY OF LEGAL ISSUES AND FACTUAL COMPLEXITY; (C) RESPONSIBILITIES INVOLVED MEASURED BY THE MAGNITUDE AND IMPORTANCE OF THE CASE; (D) MANNER IN WHICH DUTIES WERE PERFORMED AND KNOWLEDGE, SKILL EFFICIENCY, PROFESSIONALISM, AND JUDGMENT REQUIRED OF AND USED BY COUNSEL; (E) NATURE OF COUNSEL'S PRACTICE AND HARDSHIP OR INJURY RESULTING FROM THE REPRESENTATION; AND (F) ANY EXTRAORDINARY PRESSURE OF TIME OR OTHER FACTORS UNDER WHICH SERVICES WERE RENDERED.

SIGNATURE OF APPOINTED ATTORNEY:

DATE: