

SO NOW YOU WANT TO GET PAID?

NAVIGATING THE WATERS OF THE FELONY CASE VOUCHER

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A. Getting Started

1. When can you get paid?

Your representation in the case is finished.

-Final Disposition: Plea, Trial, Dismissal

-Withdrawal: Motion to Withdraw, New Counsel is Hired

Voucher must be filed within one year of date of final disposition; or in the case of a withdrawal, within one year of the date you got off the case.

2. Appointed Fee Schedule and Guidelines

-The District Courts have adopted a new fee schedule and set of guidelines applicable to representation in appointed felony cases. New order was signed 10/14/15 to go into effect 11/1/15

-Available through Criminal District Court Administration, 3rd Floor of the Tower or on the CDCA website.

-Changes in the new order:

-There is a new category for a flat fee option of \$200 on cases not disposed of by plea or dismissal. So when an attorney is initially appointed and then the arrested person hires someone else, or they have to withdraw for whatever reason, the initial appointed counsel can now choose whether to submit an itemized voucher or go with this flat fee option.

-A sentence was added to guideline #18 requiring the defense attorney to submit an investigator's pay voucher at the same time as their own.

-Guideline #25 was added requiring the attorney actually appointed to personally appear for a plea and/or sentencing.

-Guideline #26 was added prohibiting an attorney from submitting a voucher for another attorney's work or claiming appearances made by another attorney.

3. Correct Forms

- Use the correct voucher form. There is a NEW FORM as of 11/1/15 "Rev'd 11/15"
- Use correct worksheet forms to itemize In-Court time and Out-of-Court time.
- Forms are available through Criminal District Court Administration, the CDCA website and the SACDLA website

B. The Attorney's Fees Expense Claim Form – District Court, Bexar County Rev'd 11/15

AKA "The Voucher"

1. Filling Out the Form

- The voucher is a reflection of you.
- Fill in all the blanks. They are there for a reason.
- Write legibly, or use a fillable form.
- Include date of disposition and brief description. Ex. 1/1/15, Plea, sent. 10 yrs TDC
- Make sure you have the correct offense category. If multiple cases, you use the highest level offense category.

2. To Itemize or Flat Fee it?

- You can submit an itemized time voucher or a flat fee, but not a hybrid.
- Keep track of your time. If you are appointed on multiple cases for the same defendant, keep track of all time spent on all cases.
- If time adds up to more than that of a flat fee, submit an itemized voucher. If you have multiple cases, submit all of your time for all of the cases on one itemized voucher listing each of the cases. * You get to use the hourly rate for the highest level case for all of your time.

3. Keep Track of Your Time

- Out-of-Court time is capped by the guidelines at 30 hours “without prior court approval.”
- Best procedure: When your out-of-court time gets into the twenties, prepare a Motion and Order and approach the court to get approval to exceed the cap of 30 hours.
- Put a number in the order you believe you may need approval for.
- GET THE ORDER SIGNED BY THE JUDGE!
- Attach a copy of the order to your voucher when you file it.

4. The “Worksheets”

- Use the correct worksheets to itemize in-court and out-of-court time.
- Write legibly!!

In-Court Time

- Use the correct worksheet.
- Write legibly!!

-IN-COURT TIME IS TO BE ITEMIZED IN ¼ HOUR INCREMENTS****

- For scheduled court appearances. Pre-hearings, Magistrate Court settings for Competency, Examining Trials etc., Status conference, Evidence Exchange, Final Consultation, Trial Settings, Pleas and sentencing, unless testimony is taken..
- Use the correct date for the setting
- Put in a brief description of setting and put time claimed in the appropriate category.
- TIP: if you are claiming more than an hour for a court setting, a little more detail may be helpful.
- The “D” page can be useful to chart your court appearances but it’s not completely reliable.
- TIP: If you are being “recalled” by the court to come back in the days after trial settings, make sure you document that in your description of services. Recalls are rarely documented on a “D” page.
- NOT IN-COURT TIME: Stopping by a court at a time other than a scheduled court appearance to chat with an ADA, get a bond set or re-instated, or get an order signed or the like, is NOT in-court time. If it is not a scheduled court appearance, you should itemize it as out-of-court time.

-THE PHANTOM SETTING****

- TRIAL TIME: itemize time actually spent in a jury or non-jury trial.
- EVIDENTIARY HEARING: itemize hours spent in hearings where testimony was presented. Ex.: Suppression hearings, competency hearings before the CLM

Out-of-Court Time

- Use the correct worksheet.
- Write legibly!!

-**OUT-OF-COURT TIME IS TO BE ITEMIZED IN REAL TIME**

-Use minutes or other increments of an hour (.05, .10, .25 etc.) but be consistent with a method that approximates “real time.”

-Old forms are still being used that say itemize by “1/4 hour” increments. These are wrong.

-Include a reasonable description of the service provided and put the time claimed in the appropriate category.

-No batching estimates...“Phone calls with client from 1/1/15 through 6/1/15.”

-Jail visits: -if itemizing, claim all jail visits as out of court time.

-where there is a delay, lockdown, or some other issue at the jail that caused a long time there for a visit, provide some detail about the problem.

-if claiming a flat fee, you can claim the flat fee for an initial jail visit done at the jail or by RAV.

-Be honest.

5. Juvenile Court Vouchers

-The Juvenile Courts have a separate Fee Schedule adopted by the Judges of those three courts.

-There is a different voucher.

Other differences:

-Out of court time is itemized in ¼ hour increments

-Settings that are only detention hearing settings are billed at \$50.00 per hearing

-You can claim the \$100.00 flat fee for the initial detention visit even if you are itemizing.

-Flat fee for a misdemeanor stip is \$150.00.

-Flat fee for a deferred prosecution where a petition has been filed is \$150.00; if you obtain a deferred prosecution before a petition has been filed, you can itemize your time.

-You may itemize for misdemeanor cases. Hourly rate is \$25.00.

-The cap for out of court time is 15 hours without prior court approval.

6. Filing Your Voucher

- Fill out the voucher completely and legibly.
- Check your math.
- Make sure you have the correct payment category.
- If claiming a flat fee, pick the correct category, include the date and put in the correct amount.
- If it's a flat fee and you also made an initial jail visit, you may also claim the one-time \$100.00 flat fee for this.
- If you are itemizing, attach your worksheets.
- Attach a copy of your appointment order.
- Attach a copy of a signed order to exceed 30 hours.
- If you are including payments to an investigator in your voucher, attach a copy of his bill and any order appointing the investigator.
- Sign your voucher and turn it in to the court.
- Must be filed within one year of disposition.
- If the voucher is for an appeal, make sure you attach a copy of your brief to the voucher.

C. AFTER THE FILING

1. Voucher is filed with the court

- Clerks accept the voucher and log it in.
- All itemized SJFs and F3s are separated and forwarded to the Voucher Recommendation Committee for review.
- Flat fees are signed by the Judge and forwarded to the auditor.
- Coordinator and/or Judge review the rest of the F1s and F2s, and Capitals and sign or forward to the Voucher Recommendation Committee for review.

2. The Voucher Recommendation Committee

- Part of the Indigent Defense Plan.
- President of SACDLA and six members.
- Members are nominated by the SACDLA President for appointment to two year terms.
- Nominees are approved by the District Judges.
- Meetings held approximately every two weeks.
- The Committee operates as an independent body.
- Committee reviews all itemized SJF and F3 vouchers, and any F1, F2, or Capital voucher sent by the court.
- For all vouchers, the committee has access to the voucher with attachments, and the “D” page for the case.
- For F1, F2 and Capital vouchers, the committee also has access to the court’s file electronically.
- In cases where questions are raised about jail visits, the committee has the ability to get the jail logs from BCSO.
- After review, the committee prepares a report that is sent back to the court along with the voucher.
- The report contains information regarding any issues noted and makes a recommendation to the court. **The court may accept or reject the recommendation.**

3. Post-Committee Processing

- Upon receiving the vouchers back from the VRC, the Judges decide what they want to do and sign and forward the voucher to the auditor for payment.
- The VRC is not advised as to the final decision of the Judge.

4. Your Voucher was Cut by the Court

Appeal

- The reduction of payment of a voucher may be appealed by the Attorney or Investigator.
- Speak with the Judge.
- Appeal to the Presiding Judge of the 4th Judicial Region, currently Judge David Peeples by filing a Motion with Judge Peeples within 21 days from the date you learn the payment was not approved.

D. PROBLEMS, PITFALLS and RED FLAGS

- Outrageous time claims.
- Claiming flat fee jail visit on itemized voucher.
- Claiming jail visits when you didn't go to the jail. (where there is a question, the jail logs can be obtained from BCSO)
- Multiple case vouchers: combining flat fees with itemizations.
- Claiming CLE class hours as out of court time...twice on two separate vouchers FOR THE SAME CLASS.
- Not using real time for your out-of-court time.
- Not being consistent with how you claim time.

-Outrageous time claims to prepare boilerplate motions. If it's a unique, tailored motion, describe it.

-Claiming time to prepare multiple motions and never filing them.

-Math errors, math errors, math errors...

-Wrong offense level = wrong hourly rate.

-Illegible handwriting.

-Claiming in court time for a trial setting and then claiming out of court time on same date for: conferred with DA, reviewed PSI with client, obtained copy of indictment, etc.

-Outing your client for being a Rat!

-Wahooing a voucher on a case where the defendant hired another attorney early on.

-Insufficient descriptions of services provided.

-Claiming outrageous time for researching the law on simple matters.

-Claiming time for a misdemeanor on a felony case.

-Claiming time spent working on a case or appearing in court where another attorney was appointed or hired.

-Claiming time in the wrong category. Ex.: Claiming time for an evidentiary hearing where no evidence was presented, or claiming trial hours for a plea or sentencing following a plea.

-Claiming over 30 out of court hours where you haven't gotten a signed order to exceed the cap.

-Claiming excessive time to open a file, check a court date, calendar a reset...etc.

-Claiming more than an hour of in-court time for a routine court appearance without explanation.

-Claiming time to fill out a voucher.

-Forging a Judge' signature will get you indicted and disbarred.