

CJA PANEL QUARTERLY

REGISTER NOW!

Sign up now for one of the three days available for our next, full-day CJA seminar training: May 12, 13 and 14, 2015 from 8:00 a.m.-5:00 p.m. at Quinnipiac Law School in North Haven, Connecticut. The seminar will be run by Sean Broderick, a national litigation support administrator at the training division of the Defender Services Office. This is a hands-on seminar where you will learn how to manage electronically scanned documents, including converting documents into searchable PDF files, and organizing and searching through electronic discovery. This seminar will help Panel members familiarize themselves with technology, effectively manage electronic discovery and meet filing requirements with both the District and Circuit courts—and we want to maximize use of this training opportunity. Registration is first come, first serve. Given the limited number of slots available each day, please sign up as soon as possible and notify us immediately should an unmovable scheduling conflict arise.

PANEL CONCERNS RELATED TO CASE ASSIGNMENTS

Many CJA Panel members have inquired about the reduction in the number of CJA appointments over the past couple of years, and the manner in which Panel attorneys receive CJA appointments. Appreciating that many members of the Panel, particularly solo and small firm practitioners, may factor in anticipated CJA assignments to their annual caseloads, we recognize the significance of this development.

Review of this matter, including analysis of data from the Clerk's Office, confirms that the number of case assignments has dropped significantly. A major reason is the general reduction in prosecutions coming out of the US Attorney's office, specifically the reduction in large scale, multi-defendant narcotics conspiracy prosecutions resulting from a shift in office priorities following the Holder memorandum. Our District is not unique in this regard.

The clerk's office assigns cases on a random basis, from a computer generated (shuffled) list. This electronic shuffle system was implemented in an effort to ensure that case assignments are evenly balanced among Panel attorneys. Specifically, when a new matter requiring CJA counsel comes in, the clerk's office calls the attorney named at the top of list. If the contacted attorney does not answer the call or cannot handle that particular matter, the clerk then contacts the next Panel member on the list until a Panel member who will accept the appointment is reached.

Appointments from the clerk's office are made without regard to an attorney's experience or the type of case. In other words, there is no training, or "junior," Panel. Thus, any Panel member may get appointed to represent, for example, a lead defendant in a multi-defendant drug case, someone charged with a phone count or a grand jury witness.

Once assigned a case, the Panel member's name is moved to the bottom of the shuffle list and will be called again in the normal course. To the extent a Panel member misses a call from the clerk's office related to a new assignment, s/he must return the call within 24 hours explaining why s/he could not accept the appointment (*e.g.*, in court, visiting a client) and affirm interest in receiving an appointment. Please make sure to call to ensure you remain at the top of the list, and that you will be called first on the next available case.

Aside from CJA assignments through the clerk's office, from time to time judges appoint counsel from the bench outside of the shuffle (*e.g.*, 3582 reductions for former clients, supervised release violations, substitute counsel appointments). In these instances, the appointment does not affect a Panel member's place on the shuffle list. It is therefore possible that a judge may appoint a Panel member and that Panel member may soon thereafter get another case through the shuffle. This scenario may explain why certain Panel members are receiving more cases than others.

Although imperfect, the shuffle helps facilitate an even distribution of assignments among Panel members. The available data indicates that the majority of Panel members received an equal number of assignments from the clerk's office. Concerns about the overall number of assignments have been expressed by a majority of the Panel, and we recognize that there has been a decline in assignments. We will continue to work with the clerk's office to ensure equitable assignment of cases.

Given the reduction in assignments, we have had discussions about whether it is sensible to add any new members to our Panel at this time. For a variety of reasons, our Panel is smaller than it has been in a number of years. It is always difficult to balance the need for available attorneys against the need to ensure that our Panel attorneys receive a sufficient number of assignments. While we are fortunate to have experienced, qualified attorneys apply for the Panel, I have voiced my position that, given the above-discussed circumstances, we need to ensure that our existing Panel members have the opportunity to engage meaningfully in federal criminal practice. It is crucial for

each Panel member to interact with US attorneys, probation officers, judges, marshals, clerks and support staff, and to maintain federal criminal practice skills and have familiarity with the nuances of this District. A regular caseload will help ensure that all of our Panel members have-and use-the skills necessary to provide the most effective representation possible.

As I have said to many of you, the CJA Standing Committee has expressed a commitment to ensuring that the assignment process is fair and transparent, and to address Panel members' understandable and well-founded concerns. In this regard, please do not hesitate to contact me or any Committee member. In addition to existing members **Todd Bussert, Frank O'Reilly** and **William Paetzold, David Ring** and **Brian Spears** were recently appointed to the Committee. David and Brian replace Jim Swaine and John Walkley, whose terms recently expired. I think I speak for all of us in thanking Jim and John for the years of invaluable service to the Committee.

—Audrey Felsen,
CJA Panel Representative

MESSAGE FROM THE CLERK'S OFFICE

The clerk's office hopes the following eVoucher reminders and helpful hints are useful to counsel:

REMINDERS:

- (1) If you attempt to log in three times and are unsuccessful, the system automatically locks you out. Please contact the clerk's office for assistance in unlocking your profile.
- (2) Expert vouchers are submitted twice in eVoucher—once as the expert and once as the approver of the submission. The exception to this rule is if your expert has been given access to submit their own vouchers. See below for steps in creating an expert voucher.
- (3) If you have an additional representation for a client, i.e. supervised release, you must file a Motion for Reappointment and a CJA23 Financial Affidavit. You will not receive a voucher until the judge approves the CJA23 and grants the motion.

HELPFUL HINTS:

- (1) Limit requests for excess funds to a maximum of two; first request is for “pretrial” stage and the second request is for “trial and post-trial” stage, similar to budgeting cases.
- (2) Limit requests for experts. One would be ideal, however, there should be no more than two as suggested in the above scenario. This will prevent errors when selecting an approval.
- (3) Once the court has approved your authorization for expert services, you can create a CJA21 voucher. The procedure is as follows:
 - (a) Select your case from your case assignment listing.
 - (b) On the blue panel to the left, select “CJA21 create.”
 - (c) On the basic info tab, select “Use Previous Authorization.” All services must have previous authorization. Select the authorization pertaining to your expert.
 - (d) Select your expert from the drop down selection. Please do this carefully. Do not add experts unless they do not exist in the drop down.
 - (e) You will be given the opportunity to check off a radio button. This button selects who will be preparing the CJA21. If your expert is one who has access and is permitted to create his/her own voucher, select the expert radio button. If not, select the attorney radio button.
 - (f) The last step is to go to the bottom of the page and click on create.
 - (g) If your expert has been given access to submit their own vouchers, be sure to double check with your expert to verify he/she now has the CJA21 on his/her desktop.

NEWS FROM THE PROBATION OFFICE:

PRETRIAL DEFENDANTS IN SUPPORT COURT RECEIVE REDUCED SENTENCES!

Beginning in June 2013, Support Court began accepting pretrial defendants into the program. To date, the sentences imposed on those defendants who have graduated, are markedly below the advisory guideline range.

- Defendant A received a sentence of probation. Her guideline range was 46 - 57 months.
- Defendant B received a sentence of Time Served (36 days), and was placed on supervised release for 36 months. Hi guideline range was 37-46 months.
- Defendant C received a sentence of 4 years' probation. His guideline range was 33-41 months.
- Defendant D received a sentence of 3 years' probation. Her guideline range was 12-18 months.
- Defendant E received a sentence of Time Served (1 day) and was placed on supervised release for 36 months. He was looking at a 5 year mandatory minimum but was safety valve eligible.
- Defendant F received a sentence of 36 months' probation. His guideline range was 37-46 months.
- Defendant G received a sentence of 1 year probation. His guideline range was 18-24 months.
- Defendant H completed pretrial diversion.

Support Court is a four phase Evidence Based Program. Support Court's mission is to provide support and structure to participants who struggle with drug and alcohol addiction. Support Court uses a team approach, comprised of the judges, the Probation Office, the Federal Defender's Office, and a treatment provider. Completion of Support Court takes approximately 12 months. Participation by pretrial defendants requires prior approval from the Judge presiding over the criminal case.

The Support Court Orientation packet is available on US Probation's public website and additional questions can directed to Deborah Palmieri or any Support Court officer.