

## **18 U.S.C. § 3006A -- Adequate Representation of Defendants**

### **18 U.S.C. § 3006A(e)**

#### **(e) Services other than counsel.--**

1. **(1) Upon request.--**Counsel for a person who is financially unable to obtain investigative, expert, or other services necessary for adequate representation may request them in an ex parte application. Upon finding, after appropriate inquiry in an ex parte proceeding, that the services are necessary and that the person is financially unable to obtain them, the court, or the United States magistrate judge if the services are required in connection with a matter over which he has jurisdiction, shall authorize counsel to obtain the services.

**(2) Without prior request.--(A)** Counsel appointed under this section may obtain, subject to later review, investigative, expert, and other services without prior authorization if necessary for adequate representation. Except as provided in subparagraph (B) of this paragraph, the total cost of services obtained without prior authorization may not exceed \$800 and expenses reasonably incurred.

**(B)** The court, or the United States magistrate judge (if the services were rendered in a case disposed of entirely before the United States magistrate judge), may, in the interest of justice, and upon the finding that timely procurement of necessary services could not await prior authorization, approve payment for such services after they have been obtained, even if the cost of such services exceeds \$800.

**(3) Maximum amounts.--**Compensation to be paid to a person for services rendered by him to a person under this subsection, or to be paid to an organization for services rendered by an employee thereof, shall not exceed \$2,400, exclusive of reimbursement for expenses reasonably incurred, unless payment in excess of that limit is certified by the court, or by the United States magistrate judge if the services were rendered in connection with a case disposed of entirely before him, as necessary to provide fair compensation for services of an unusual character or duration, and the amount of the excess payment is approved by the chief judge of the circuit. The chief judge of the circuit may delegate such approval authority to an active or senior circuit judge.

**(4) Disclosure of fees.--**The amounts paid under this subsection for services in any case shall be made available to the public.

## **18 U.S.C. § 3006A(f)**

**(f) Receipt of other payments.**--Whenever the United States magistrate judge or the court finds that funds are available for payment from or on behalf of a person furnished representation, it may authorize or direct that such funds be paid to the appointed attorney, to the bar association or legal aid agency or community defender organization which provided the appointed attorney, to any person or organization authorized pursuant to subsection (e) to render investigative, expert, or other services, or to the court for deposit in the Treasury as a reimbursement to the appropriation, current at the time of payment, to carry out the provisions of this section. **Except as so authorized or directed, no such person or organization may request or accept any payment or promise of payment for representing a defendant.**

## Guide to Judiciary Policies, Vol. 7 Defender Services

### Part A: Guidelines for Administering the CJA and Related Statutes

#### Ch 3: Authorization and Payment for Investigative, Expert, or Other Services

##### 310.10.10 Overview

- (a) Investigative, expert, or other services necessary to adequate representation, as authorized by subsection (e) of the Criminal Justice Act (CJA) (18 U.S.C. § 3006A), are available to persons who are eligible under the CJA, **including persons who have retained counsel but who are found by the court to be financially unable to obtain the necessary services.**
- (b) In this connection, a person with retained counsel is financially unable to obtain the necessary services if the person's resources are in excess of the amount needed to provide the person and the person's dependents with the necessities of life, provide defendant's release on bond, and pay a reasonable fee to the person's retained counsel, **but are insufficient to pay for the necessary services.**

##### § 310.10.20 Retained Counsel and Fee Arrangements

- (a) In responding to requests for subsection (e) services by a person represented by retained counsel, **the court should inquire into the fee arrangement between the retained attorney and the client.**
- (b) If the court finds the fee arrangement **unreasonable** in relation to fees customarily paid to qualified practitioners in the community for services in criminal matters of similar duration and complexity, or that it was **made with a gross disregard of the defendant's trial expenses, the court may order the retained attorney to pay out of such fees all or such part of the costs and expenses as the court may direct.**
- (c) The procedure outlined in the Guide, Vol 7A, § 210.40.40 **applies to such persons who are financially able to pay some, but unable to pay all, the costs of necessary services.**

## § 310.20 Limitations

### § 310.20.10 With Prior Authorization

- (a) With prior authorization, compensation for investigative, expert, and other services is limited to \$2,400 per organization or individual, exclusive of reimbursement for expenses reasonably incurred, per individual authorization to perform said service, except with regard to capital cases. For guidelines applicable to capital cases, see: Guide, Vol 7A, § 660.20.10. A separate authorization should be obtained for each type of service for each person served, and for each defendant served, and for each case.
- (b) While the service provider may be compensated separately for each person served, care should be taken to ensure that duplicate charges are not being made for the same services.
- (c) If, under subsection (e) of the CJA, such services are rendered by members of an organization such as a corporation, unincorporated association, or partnership (other than those created under subsection (g) of the CJA), in their capacities as members of that organization, compensation is deemed to have been earned by the organization and is paid to it only once, per CJA client served, in an amount not to exceed the statutory maximum of \$2,400, exclusive of reimbursement for expenses reasonably incurred.
- (d) Payment in excess of the \$2,400 limit for services authorized prior to the performance thereof may be made when certified by the U.S. judge or U.S. magistrate judge and approved by the chief judge of the circuit (or an active or senior circuit judge to whom excess compensation approval authority has been delegated) as being **necessary to provide fair compensation for services of an unusual character or duration**.
- (e) If it can be anticipated that the compensation will exceed the statutory maximum, advance approval should be obtained from the court and the chief judge of the circuit (or the active or senior circuit judge to whom excess compensation approval authority has been delegated).

## § 310.20.20 Without Prior Authorization

- (a) Subsection (e)(2)(A) of the CJA authorizes the obtaining of investigative, expert, and other services, without prior authorization but subject to subsequent review, providing the **cost of the services obtained does not exceed \$800 plus expenses reasonably incurred.** For information regarding obtaining investigative, expert, and other services in capital cases, see: Guide, Vol 7A, § 660.
- (b) This \$800 limit may be waived, however, if the presiding judge or U.S. magistrate judge (if the services were rendered in a case disposed of entirely before the U.S. magistrate judge) in the interest of justice, **finds that timely procurement of necessary services could not await prior authorization.**

## § 310.40 Claims for Services Other than Counsel

All claims for services other than counsel, under subsection (e) of the CJA, should include the following:

- (a) a statement as to the type of, dates of, and time expended for, the services provided;
- (b) an explanation of the fee arrangement (e.g., hourly rate, per diem rate, etc.);
- (c) an itemized statement of all expenses for which reimbursement is claimed; and
- (d) supporting documentation, where practicable, for all expenses of lodgings and subsistence, and for any expenses in excess of \$50.

### Forms:

Public Website of U. S. Courts:

[http://www.uscourts.gov/forms/forms\\_CJA.cfm](http://www.uscourts.gov/forms/forms_CJA.cfm)

Middle District of Alabama Federal Defender Program, Inc.

[www.almfd.org/cja\\_resources.html](http://www.almfd.org/cja_resources.html)

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

UNITED STATES OF AMERICA            )  
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**ORDER**

Upon consideration of the defendant’s *Ex Parte Motion for Funds for Whiz Bang Expert and Motion to Seal* and for good cause, it is

**ORDERED** that the motion for funds be and is hereby **GRANTED** to the extent that, pursuant to 18 U.S.C. § 3006A(3), compensation to be paid to a computer analyst for services rendered shall not exceed **2,400.00**, exclusive of reimbursement for expenses reasonably incurred. *Id.* at § 3006A(e)(3; Guide to Judiciary Policies and Procedures, Volume 7: Appointment of Counsel in Criminal Cases, § A. 3.02 Limitations. It is further

**ORDERED** that the motion to seal be and is hereby **GRANTED**.

The Clerk of the Court is **DIRECTED** to issue the appropriate CJA 21 Voucher.

If the an expenditure in excess of the \$2,400.00 is necessary to provide fair compensation for services of an unusual character or duration the defendant should file a second request with a full and complete explanation of the necessity for these service.

Done this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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CHARLES S. COODY  
UNITED STATES MAGISTRATE JUDGE

**Information Necessary to Obtain Advance Authorization For Investigative, Expert or Other Services in Excess of Maximum Allowed Under subsection (e)(3) of the Criminal Justice Act, 18 U.S.C. § 3006A:**

Case Name & Designation (Case Number)

Defendant's Name

Appointed CJA Counsel's Name

Name of Expert or Investigator or Service Provider

Address

Type of Service

Reasons for Application

Estimated Compensation