



District of Columbia Court of Appeals
500 Indiana Avenue, N. W.
Washington, D.C. 20001-2131

To Members of the DCCA CJA and CCAN Panels:

As you may remember, after the court's 2005 fall meeting with CJA Panel members, the court considered and granted the request of the panel members to permit attorneys to submit interim vouchers after the filing of appellant's brief. Since February of this year panel members have been allowed to submit partial vouchers after the filing of appellant's brief to the extent that the voucher did not exceed the statutory limit. During this period of time the court has received numerous interim vouchers that have been just below the statutory amount, but did not include all time for researching, writing and filing the brief. Since this was an unanticipated result of the change in procedure, the Board of Judges has undertaken a review of this change in procedure.

As you know, Code provisions anticipate compensation "at the conclusion of the representation or any segment thereof." See D.C. Code §§11-2604(a) and 16-2326.1(a)(1). Since 2000, and prior to the change of procedure in 2006, the court had permitted the submission of a voucher after the date of the argument or submission of the appeal. Supplemental vouchers have been permitted for compensation requested for post-argument briefing that might be requested by the court or for work spent on Rule 35 or 40 matters.

Therefore, in response to the previous request of counsel and upon review of this trial change in procedure, the Board of Judges has decided to revise this procedure as follows. At the time appellant's brief is filed, counsel shall be permitted (but not required) to file a claim for compensation and expenses, provided that the compensation requested does not exceed the presumptively applicable statutory maximum compensation, and provided further that the compensation request must cover all work through and including the filing of the brief. The filing of a claim at the time appellant's brief is filed shall constitute the final compensation request for all work through and including the filing of the brief and shall constitute a waiver of any further compensation for such work. If counsel wishes to request compensation exceeding the presumptively applicable statutory maximum for work through and including the initial brief, counsel must wait until the conclusion of representation (or after argument) to file a claim. Further, in the event counsel files a compensation claim at the time appellant's brief is filed, counsel shall be permitted to file a supplemental claim for compensation and expenses after the date of oral argument or submission of the appeal. However, such a supplemental claim shall seek compensation only for work performed after the filing of appellant's initial brief, such as the preparation and filing of a reply brief, oral argument, and the preparation and filing of petitions for rehearing or for certiorari. A supplemental voucher may be requested by email to Rosanna Mason, Staff Counsel at rmason@dcca.state.dc.us.

This change in procedures will be effective for any vouchers submitted after December 29, 2006. Attorneys should not presume that, if they receive the maximum compensation for a voucher submitted after the filing of their briefs, a supplemental voucher in excess of the maximum amount will be approved as a matter of course.

Additionally, the court wants to remind counsel that the court does not pay for costs spent on electronic research and that such costs should not be included on the voucher, and if so, will not be paid. Further, counsel is reminded that if counsel is seeking payment for time spent on D.C. Code § 23-110 motions, the explanation letter accompanying the voucher should detail

that counsel either : (1) researched possible issues and determined that a motion was not necessary; or (2) if a motion is filed, counsel sought appointment in the trial court and was either denied appointment or that the court did not act on the pending motion for appointment.

December 12, 2006