

STATE OF FLORIDA
TENTH JUDICIAL CIRCUIT COURT

COMPENSATION AND QUALIFICATIONS FOR
COURT APPOINTED ATTORNEYS
IN CRIMINAL AND JUVENILE DELINQUENCY CASES

COMPENSATION

Pursuant to Section 27.5304, Florida Statutes, attorneys appointed to a case on or after February 15, 2007 in any of the courts in the Tenth Judicial Circuit of the State of Florida, shall be compensated at the following hourly rates for the number of hours determined by the presiding judge in the case to have reasonably been required and actually devoted by the attorney in the case, to wit:

- (1) Misdemeanors at the trial level: \$85.00
- (2) Non-capital, non-life felonies and life felonies represented at the trial level: \$85.00
- (3) Juvenile delinquency cases represented at the trial level: \$85.00
- (4) Capital cases represented at the trial level: \$120.00 for lead counsel and \$100.00 for second chair counsel

Unless it is essential to the representation of the defendant, such as at the actual trial, it is expected that in capital cases only one attorney will bill for and be compensated for representation of the defendant for such matters as pre-trial motions, depositions, the preparation of pleadings, and presence at pre-trial proceedings and hearings.

- (5) Representation on appeal: \$85.00
- (6) Travel time: \$75.00 (In the event more than one court-appointed case is handled or dealt with during any billed trip, the travel time shall be allocated between the cases.)

The minimum fee for all cases will be \$150.00 per defendant. Time will be billed to the quarter-hour or tenth-hour. In matters where the State Attorney's Office "no bills" or "*nolle prosses*" a case, the court appointed attorney shall be compensated at the rates set forth in this document.

Additionally, in the following types of matters, the attorney may seek leave from the court to apply for compensation six months after appointment and every six months thereafter, until the conclusion of the case: Capital murder, Capital Sexual Battery, Life Felonies, First Degree Felonies, Cases with Multiple Defendants, Cases where the

Defendant has Multiple Charges, Cases where the Defendant is Incompetent, Fraud and RICO Cases, or other serious, complex cases as determined by the Court.

An attorney may specify in which county or counties in the Tenth Circuit that they wish to accept appointments. In addition, an attorney, upon approval by the court, may be excused from an appointment for good cause shown without relinquishing the right to continue receiving appointments in other cases.

In accordance with Section 27.5304, Florida Statutes:

- (1) If the court appointed attorney is representing a defendant charged with more than one offense in the same case, the attorney shall be compensated at the rate provided for the most serious offense.
- (2) The compensation for representation shall not exceed the statutory limits, which currently are:
 - a. Misdemeanors and juveniles represented at the trial level: \$1,000.00
 - b. Non-capital, non-life felonies represented at the trial level: \$2,500.00
 - c. Life felonies represented at the trial level: \$3,000.00
 - d. Capital cases represented at the trial level: \$3,500.00
 - e. Representation on appeal: \$2,000.00

WHEN IT APPEARS THAT THE FEES INVOLVED IN A CASE MAY AMOUNT TO MORE THAN THE STATUTORY MAXIMUM, THE APPOINTED ATTORNEY MAY MAKE A MOTION TO EXCEED THAT AMOUNT WHICH SHALL BE HEARD AS SOON AS CAN BE ARRANGED. NO FEES GREATER THAN THE STATUTORY MAXIMUM WILL BE APPROVED WITHOUT COURT AUTHORIZATION. TIME SPENT IN PREPARATION OF ANY MOTION TO EXCEED AND ANY HEARING HELD ON THE MOTION SHALL BE COMPENSATED AT THE RATES SET FORTH IN THIS DOCUMENT.

QUALIFICATIONS

Trial attorneys appointed by the court must:

- (1) Be a member in good standing of The Florida Bar
- (2) Will attend a minimum of ten hours of Florida Bar approved continuing legal education devoted to criminal law in each Florida Bar reporting period
- (3) Maintain malpractice insurance

- (4) Meet the following experience requirements
- a. In misdemeanor cases the attorney shall have been a member of The Florida Bar for at least one year and an experienced and active trial practitioner with no fewer than three state or federal jury or non-jury trials
 - b. In juvenile cases the attorney shall have been a member of The Florida Bar for at least one year and an experienced and active trial practitioner with no fewer than three delinquency dispositions or three state or federal jury or non-jury trials
 - c. In third degree felony cases the attorney shall have been a member of The Florida Bar for at least two years and an experienced and active trial practitioner with no fewer than three state or federal jury or non-jury trials
 - d. In second degree felony cases the attorney shall have been a member of The Florida Bar for at least two years and an experienced and active trial practitioner with no fewer than seven state or federal jury trials
 - e. In first degree felony cases, life felony cases and capital sexual battery cases, the attorney shall have been a member of The Florida Bar for at least five years and an experienced and active trial practitioner with no fewer than ten state or federal jury trials.
 - f. In capital death penalty cases, lead counsel and second chair counsel shall meet minimum standards for attorneys in capital cases as set out in Rule 3.112, Florida Rules of Criminal Procedure:

(1) Lead Counsel. Lead trial counsel assignments should be given to attorneys who:

(a) are members of the bar admitted to practice in the jurisdiction or admitted to practice *pro hac vice*; and

(b) are experienced and active trial practitioners with at least five years of litigation experience in the field of criminal law; and

(c) have prior experience as lead counsel in no fewer than nine state or federal jury trials of serious and complex cases which were tried to completion, as well as prior experience as lead defense counsel or cocounsel in at least two state or federal cases tried to completion in which the death penalty was sought. In addition, of the nine jury trials which were tried to completion, the attorney should have been lead

counsel in at least three cases in which the charge was murder; or alternatively, of the nine jury trials, at least one was a murder trial and an additional five were felony jury trials; and

(d) are familiar with the practice and procedure of the criminal courts of the jurisdiction; and

(e) are familiar with and experienced in the utilization of expert witnesses and evidence, including but not limited to psychiatric and forensic evidence; and

(f) have demonstrated the necessary proficiency and commitment which exemplify the quality of representation appropriate to capital cases, including but not limited to the investigation and presentation of evidence in mitigation of the death penalty; and

(g) have attended within the last two years a continuing legal education program of at least twelve hours' duration devoted specifically to the defense of capital cases. Attorneys who do not meet the continuing legal education requirement on July 1, 2002, shall have until March 1, 2003, in which to satisfy the continuing legal education requirement.

(2) Co-counsel. Trial co-counsel assignments should be given to attorneys who:

(a) are members of the bar admitted to practice in the jurisdiction or admitted to practice *pro hac vice*; and

(b) qualify as lead counsel under paragraph (f) of these standards or meet the following requirements:

(c) are experienced and active trial practitioners with at least three years of litigation experience in the field of criminal law; and

(d) have prior experience as lead counsel or cocounsel in no fewer than three state or federal jury trials of serious and complex cases which were tried to completion, at least two of which were trials in which the charge was murder; or alternatively, of the three jury trials, at least one was a murder trial and one was a felony jury trial; and

- (e) are familiar with the practice and procedure of the criminal courts of the jurisdiction; and
- (f) have demonstrated the necessary proficiency and commitment which exemplify the quality of representation appropriate to capital cases, and
- (g) have attended within the last two years a continuing legal education program of at least twelve hours' duration devoted specifically to the defense of capital cases.

Appellate counsel appointed by the court must:

1. Be a member in good standing of The Florida Bar
2. Have attended or will attend between October 1, 2003 and October 1, 2005 a minimum of ten hours of Florida Bar approved continuing legal education devoted to criminal or appellate law and will, in each subsequent Florida Bar reporting period, meet the same requirement
3. Maintain malpractice insurance
4. Meet the following experience requirements:
 - a. In misdemeanor and third degree felony appeals the attorney shall have been: a member of The Florida Bar for at least two years, an experienced and active practitioner in the field of appellate criminal law or have prior experience in the appeal of at least three criminal cases
 - b. In non-capital felony appeals cases the attorney shall have been a member of The Florida Bar for at least three years, an experienced and active practitioner in the field of appellate criminal law or have experience in the appeal of at least five criminal cases
 - c. In capital death penalty appeals, the attorney shall meet minimum standards for attorneys in capital cases as set out in Rule 3.112, Florida Rules of Criminal Procedure:

(1) Appellate Counsel. Appellate counsel assignments should be given to attorneys who:

- (a) are members of the bar admitted to practice in the jurisdiction or admitted to practice *pro hac vice*; and
- (b) are experienced and active trial or appellate practitioners with at least five years of experience in the field of criminal law; and

(c) have prior experience in the appeal of at least one case where a sentence of death was imposed, as well as prior experience as lead counsel in the appeal of no fewer than three felony convictions in federal or state court, at least one of which was an appeal of a murder conviction; or alternatively, have prior experience as lead counsel in the appeal of no fewer than six felony convictions in federal or state court, at least two of which were appeals of a murder conviction; and

(d) are familiar with the practice and procedure of the appellate courts of the jurisdiction; and

(e) have demonstrated the necessary proficiency and commitment which exemplify the quality of representation appropriate to capital cases; and

(f) have attended within the last two years a continuing legal education program of at least twelve hours' duration devoted specifically to the defense of capital cases.

DUE PROCESS COSTS

- (1) Court Interpreting When needing the services of a court interpreter, court appointed counsel is strongly encouraged to utilize the services of the due process vendors who are listed on Exhibit A.
- (2) Court Reporting When needing the services of a court reporter, court appointed counsel may utilize the services of the due process service vendors found in Exhibit A, or may utilize the services of the Tenth Circuit Electronic Court Reporter's (ECR) Office for recording of depositions, obtain a compact disc copy of that recording from the ECR Office and then have the transcription completed by one of the vendors on Exhibit A or another privately retained court reporter. If a court reporter not listed on Exhibit A is retained to provide services, the maximum rates allowable will be those found on Exhibit B.
- (3) Expert Witnesses When needing the services of an expert witness for evaluations and testimony, both in-court and by deposition, court appointed counsel may retain the services of the expert witness at the rates as set forth in Exhibit D.
- (4) Investigators In a criminal or juvenile delinquency case, court appointed counsel may retain the services of an investigator and compensate for such services at the maximum rate of \$50.00 per hour for a maximum of 15 (fifteen) hours per case. The period of 15 hours may be exceeded after

obtaining a court order allowing such, upon a showing of good cause to the court.

- (5) Service of Process For process of service within Florida, the maximum rate of \$25.00 per service of process or attempted service and a maximum of \$20.00 per service of process or attempted service shall be allowed. No payment shall be paid for service of process or attempted service beyond the second service or attempt of service. For service within Florida, process servers will not be paid for mileage, regardless of destination. Allowable fees for service of process outside of Florida will be the actual amount billed.
- (6) Miscellaneous Expenses
 - a. Travel Expenses: Mileage, transportation and per diem will be paid in accordance with Section 112.061, Florida Statutes for out-of-county travel only.
 - b. Photocopies: Copies will be reimbursable at the rate of 15 cents per page.
 - c. Faxes: Incoming faxes will be reimbursable at the rate of 15 cents per page.
 - d. Long Distance Calls: Long Distance telephone calls will be reimbursable at the actual cost.
- (7) The rates contained in the Exhibits are the rates that the Court will approve when presented with a Motion for Attorney's Fees and Costs.
- (8) If court appointed counsel chooses to retain a due process service provider other than those listed on the Exhibits, the Court will not approve any rates that are higher than those set out in the Exhibits.
- (9) Court appointed counsel is responsible to check the Circuit web site for updates to the Exhibits, as they are subject to change.
- (10) The Exhibits will be known as: Vendors & Fees – Exhibit A; Court Reporting Fee Schedule – Exhibit B; Tenth Circuit Electronic Court Reporter's Office Fee Schedule – Exhibit C; and Expert Witness Fees – Exhibit D.

Established by the Tenth Circuit Indigency Services Committee on February 5, 2007.