

# CASE BUDGETING IN CAPITAL CASES

# CASE BUDGETING PROCESS AND BENEFITS

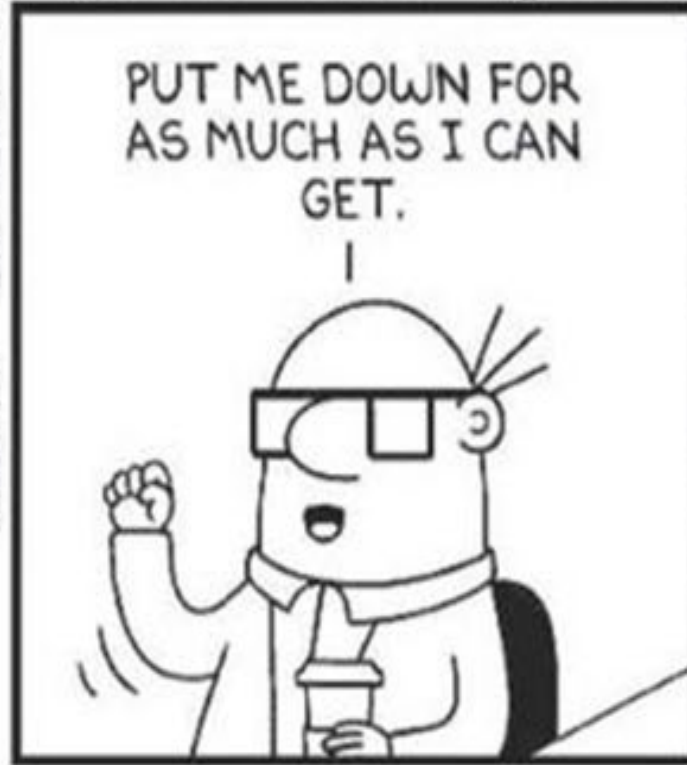
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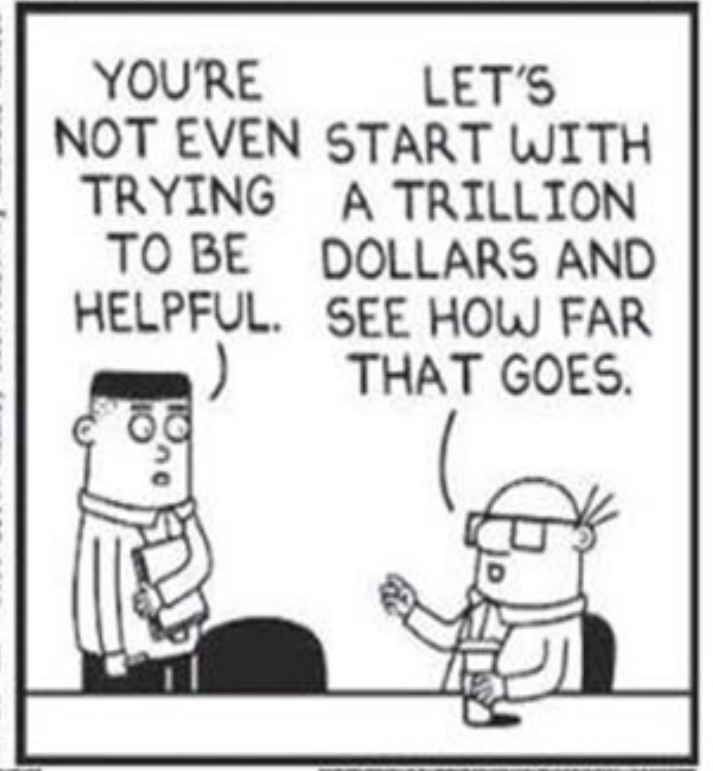
# Dilbert



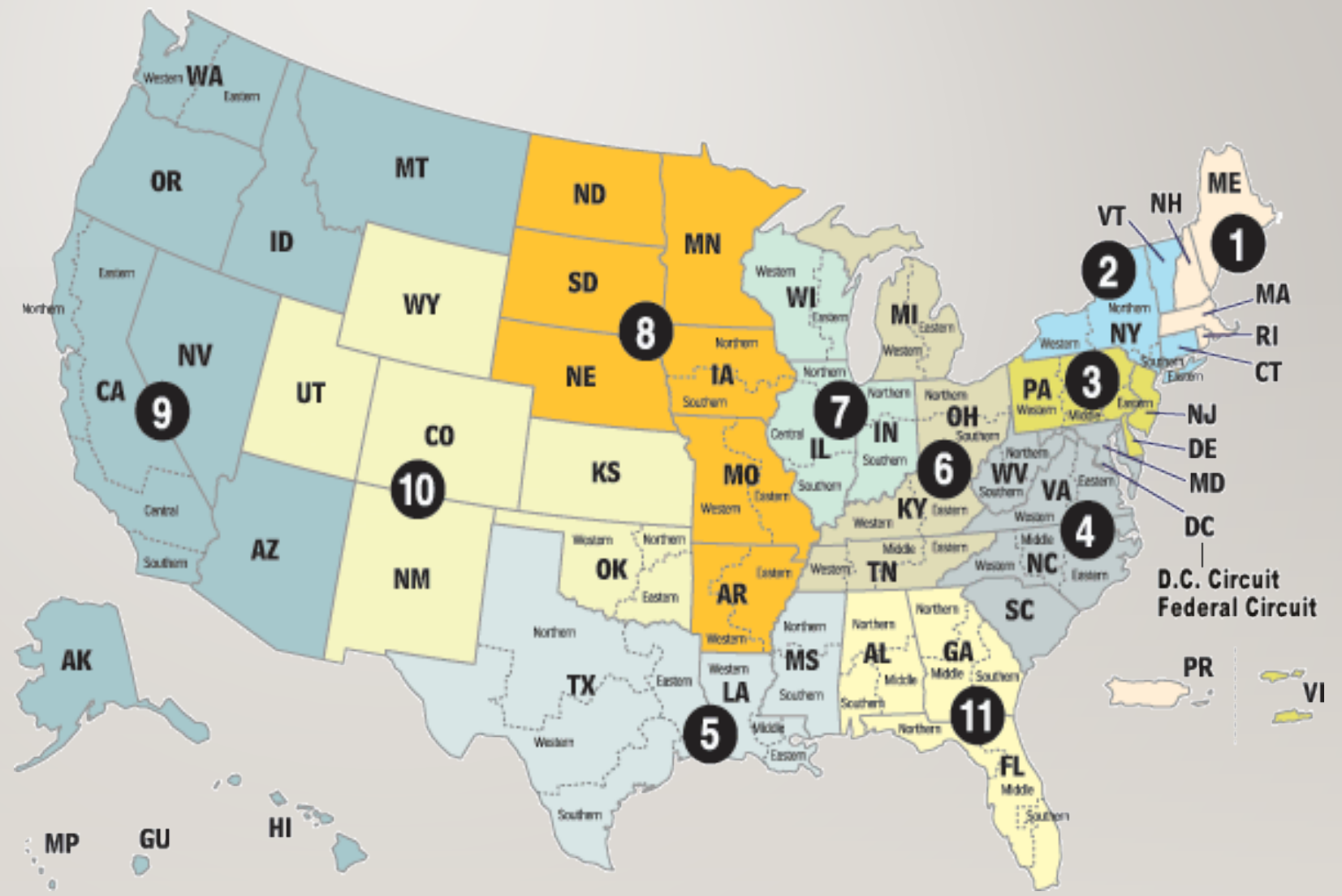
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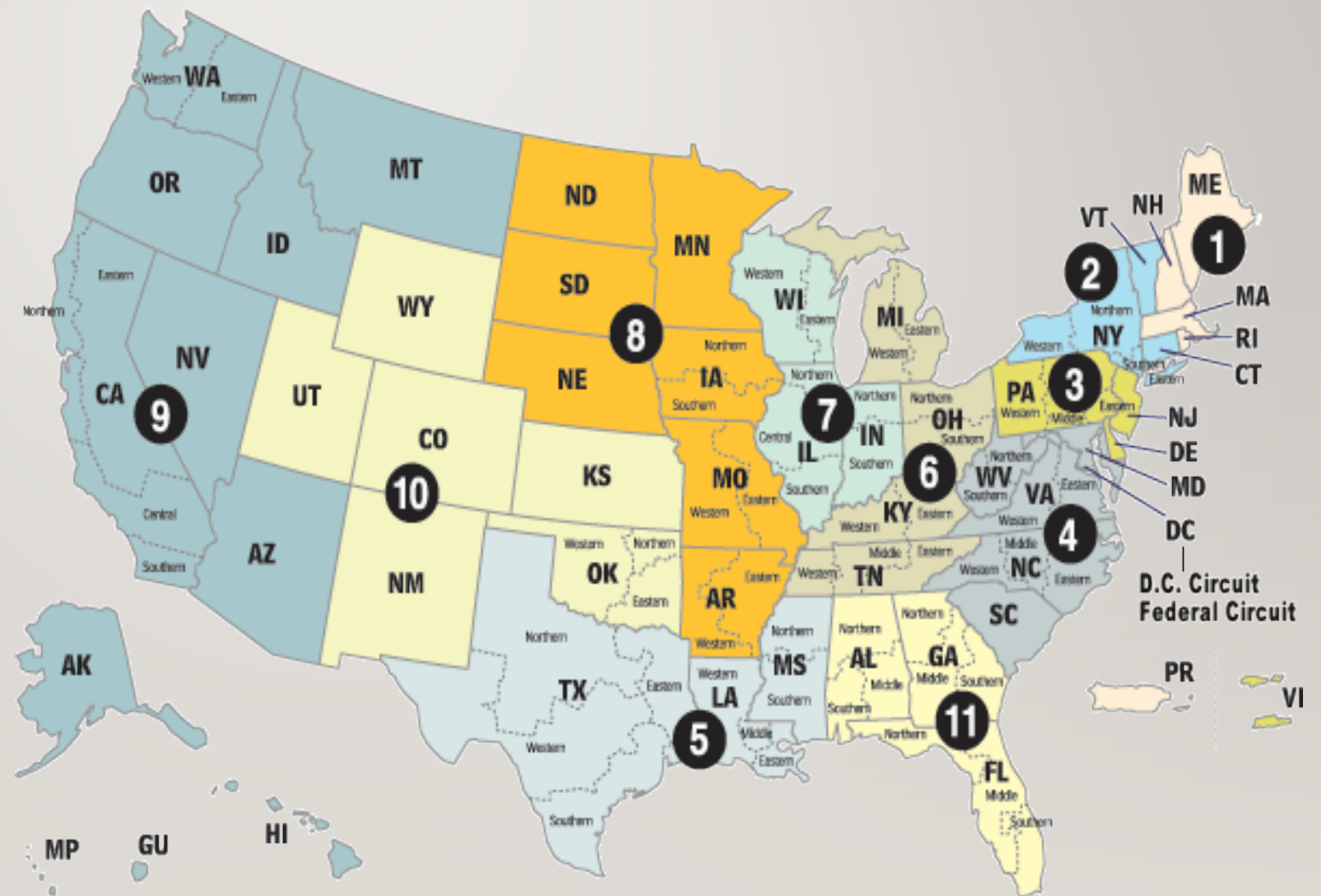
7-20-21 2021 Scott Adams, Inc./Dist. by Andrews McMeel



- 1<sup>st</sup> Circuit – Michael Andrews
  - [Michael\\_Andrews@ca1.uscourts.gov](mailto:Michael_Andrews@ca1.uscourts.gov)
- 2<sup>nd</sup> Circuit – Alan Nelson
  - [Alan\\_Nelson@ca2.uscourts.gov](mailto:Alan_Nelson@ca2.uscourts.gov)
- 3<sup>rd</sup> Circuit – Renee Edelman
  - [Renee\\_Edelman@ca3.uscourts.gov](mailto:Renee_Edelman@ca3.uscourts.gov)
- 4<sup>th</sup> Circuit – Larry Dash
  - [Larry\\_Dash@ca4.uscourts.gov](mailto:Larry_Dash@ca4.uscourts.gov)
- 5<sup>th</sup> Circuit – Meg Alverson
  - [Margaret\\_Alverson@ca5.uscourts.gov](mailto:Margaret_Alverson@ca5.uscourts.gov)



- 6<sup>th</sup> Circuit – Denny Alerding
  - [Dennis\\_Alerding@ca6.uscourts.gov](mailto:Dennis_Alerding@ca6.uscourts.gov)
- 7<sup>th</sup> Circuit – Jodi Garvey
  - [Jodi\\_Garvey@ca7.uscourts.gov](mailto:Jodi_Garvey@ca7.uscourts.gov)
- 8<sup>th</sup> Circuit – Vacant
- 9<sup>th</sup> Circuit – Jennifer Naegele/Suzanne Morris
  - [JNaegele@ce9.uscourts.gov](mailto:JNaegele@ce9.uscourts.gov)
  - [Smorris@ce9.uscourts.gov](mailto:Smorris@ce9.uscourts.gov)
- 10<sup>th</sup> Circuit – Rebecca Skordas
  - [Rebecca\\_Skordas@ca10.uscourts.gov](mailto:Rebecca_Skordas@ca10.uscourts.gov)
- 11<sup>th</sup> Circuit – None
- DC Circuit - None



# ROLE OF THE CASE BUDGETING ATTORNEY

## *A MODERATED DISCUSSION*

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- ***We want to help you get what you need!***
- Intersectional role between DSO and courts; between district judges and Chief Circuit Judge
- All CBAs are former defense attorneys and passionate advocates for the indigent defense function **and** charged with an institutional obligation to be stewards of the national CJA program and to protect the integrity of the Sixth Amendment right to counsel
- Critical to build trust with attorneys and judges alike
- Goal is to help defense teams obtain the resources necessary to provide the best representation possible and make things easier for both defense counsel and judges/local administrators
- Broker / Mediator
- Confidentiality / Keeper of secrets
- Can help to shepherd funding requests, travel plans, and vouchers through often fragmented CJA payment system
- Exact duties (and challenges/culture) vary from circuit to circuit. Ask us!

# FUNDING BASICS

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- 18 USC § 3599
  - Financially eligible defendants shall be entitled to appointment of one or more attorneys and furnishing of other services
  - Broader scope of representation
  - Different standard for service provider requests than 18 USC § 3006a – “the court may authorize”
- Guidelines for Administering the CJA and Related Statutes, Guide to Judiciary Policy, Volume 7A
  - Chapter 6 is specific to capital cases but other chapters are still applicable
- Other sections of the Guide to Judiciary Policy may be applicable
  - Travel rules for Judiciary staff apply to CJA attorneys
  - Other rules governing court expenditures may apply to CJA expenditures, such as rates for document translation
- District and Circuit-specific rules and procedures



# EACH CIRCUIT HAS A DIFFERENT CASE BUDGETING PROCESS

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- Some circuits use spreadsheet forms, some do not
- Some circuits require memoranda, some do not
- Some circuits use seed money orders, some do not
- Some circuits budget in stages, some budget in time increments
- Some circuits submit budgets through EBA, ECF or eVoucher, some do not
- You have to follow the process of the Circuit you are in
  - Individual districts or judges may have additional requirements



# CASE PLANNING IS PART OF THE CASE BUDGETING PROCESS

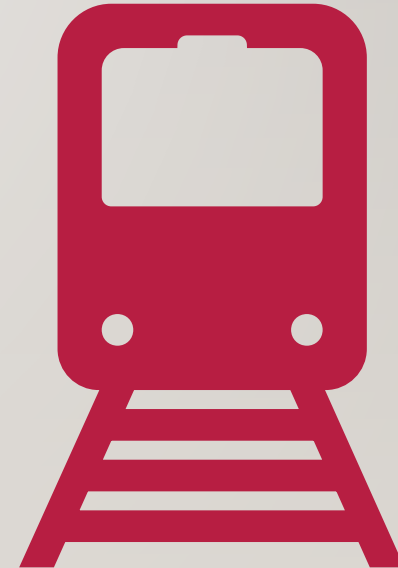
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- Preparing a case budget is how to stay organized and plan ahead
- What tools do I need to organize and coordinate the defense team?
- How much discovery is anticipated? What tools do I need to organize and review it?
- What will I need in the next six months? In the next year? After authorization? Not until trial?
- Do I or my team members need an interpreter to communicate with the client or witnesses? Will I need discovery and case materials translated?
- Where will I or my team members need to travel?

# THINGS YOU NEED PRIOR APPROVAL FOR IN CAPITAL CASES

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- All service providers and vendors
- Train and air travel, hotel rooms, meal expenses, rental cars
- Other out of district travel, subject to local rules
- Submission of interim vouchers
- Transcript purchases
- Associates



# TIPS FOR REQUESTING SERVICE PROVIDERS IN YOUR BUDGET PROPOSALS

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- These requests are a form of advocacy on behalf of your client and an opportunity to have an ex parte communication with the Court about your client and the case
- If written justification is required, you must provide enough information for the presiding judge or circuit judge to determine that “a reasonable attorney would regard the services as sufficiently important”
  - Facts and details are more important than law or standards
- Do not forget travel and expenses for your service providers
- Some service providers can be requested name TBD and some cannot

# CASE BUDGETING WILL GET YOU AND YOUR SERVICE PROVIDERS PAID FASTER – IF YOU DO IT RIGHT

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- Gives judges assurance that there is a plan and an intent to use CJA resources wisely
- Aims to tie up loose ends
- All advance approvals are in one document, including your service providers
- Case budgeting attorneys give you a learned intermediary in the process
- Case budgeting is only as good as the information you bring to the process

# STANDARD CJA PAYMENT PROCESS FOR SERVICE PROVIDERS IN CAPITAL CASES

- Attorney obtains all necessary prior approvals for service provider
- Attorney submits a CJA31 voucher on behalf of service provider through eVoucher
- Court or federal defender staff audit the voucher
- The presiding judge reviews and approves the voucher
- If the combined service provider expenditures exceed \$7500, the voucher must be reviewed by the Circuit Chief Judge or designee
- The Circuit Chief Judge or designee approves the voucher
- The voucher is sent back to the District Court to be sent out for payment
- Service provider is paid

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# THINGS THAT CAN GO WRONG IN THE CJA PAYMENT PROCESS

## Auditing staff finds technical or mathematical errors

Vouchers do not contain sufficient description of services or time is not billed in increments of a tenth of an hour

Non-compensable services are included in the voucher

Receipts and other necessary documentation are not attached to the voucher

Necessary prior approvals were not obtained



## A judge determines that the time claimed on a voucher was not reasonable

You are entitled to notice of proposed reasonableness reductions and an opportunity to respond

# THINGS TO KEEP IN MIND ABOUT THE CJA PAYMENT PROCESS

- The people who audit your vouchers get audited themselves
- Every district uses eVoucher differently
- The circuit-district relationship with regard to CJA matters is different in every circuit and every district
- Even with the most defense-attuned judges, there is limited bandwidth for CJA matters and we must be respectful of the competing demands on a judge's time

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# TRACKING CJA FUNDING

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# TRACKING EXPENSES ON CASES

- Use the **Defendant Detail Budget Report** in eVoucher to determine:

- All payments submitted to date
- Remaining (available) attorney fees
- Remaining (available) service provider fees
- If you are not the first panel attorney on the case, be sure to check how much prior attorney(s) were paid and/or whether any outstanding (unbilled) time remains to be submitted (by contacting prior counsel directly)

## Reports

### [Document History Report](#)

User must indicate the Voucher number assigned.

### [Form CJA21](#)

### [Defendant Summary Budget Report](#)

Displays summary information for this defendant.

### [Case Detail Budget Report](#)

All authorizations and vouchers paid for all defendants within a case.

### [Defendant Detail Budget Report](#)

Reflects all vouchers submitted for this defendant.

### [Case Summary Budget Report](#)

Provides summary of all CJA costs for all defendants within case.

Repayment  YES

## NOTES

Digital Forensics

Signature of Pres

Signature of Chi  
Appeals (or Dele

## Payment

Preferred Paye

## Defendant Detail Budget Report

### 3:17-CR-08000-1-JI

#### Counsel Budget      Defendant: John Doe

Type of Representation:	Criminal Case	Document	Document Number	Amount Requested	Amount Approved
Budget Amount Requested:	\$0.00	CJA-26	0970.0822711	\$5,612.40	\$4,209.30
Budget Amount Approved:	\$15,709.30	<b>Total:</b>		<b>\$5,612.40</b>	<b>\$4,209.30</b>

Voucher Dates	Voucher Number	Claimed				Approved				Voucher Info	
		Fees	Expenses		Total	Fees	Expenses		Total	Claim Status	Circuit Approved
			Travel	Other			Travel	Other			
<b>Attorney: George Attorney (Appointing Counsel)</b>						<b>Inactive</b>					
09/29/2017 to 05/31/2018	0970.0508332	\$4,583.60	\$143.63	\$13.15	\$4,740.38	\$4,344.40	\$141.49	\$13.15	\$4,499.04	Final	
Total Claimed/Approved:		\$4,583.60	\$143.63	\$13.15	\$4,740.38	\$4,344.40	\$141.49	\$13.15	\$4,499.04		
Pending Approval:		\$0.00	\$0.00	\$0.00	\$0.00						
<b>Attorney: David Attorney (Subs for Panel Attorney)</b>						<b>Active</b>					
05/31/2018 to 04/17/2019	0970.0821314	\$11,362.00	\$518.27	\$210.63	\$12,090.90					Final	
Total Claimed/Approved:		\$11,362.00	\$518.27	\$210.63	\$12,090.90	\$0.00	\$0.00	\$0.00	\$0.00		
Pending Approval:		\$11,362.00	\$518.27	\$210.63	\$12,090.90						

#### Attorney Voucher Grand Totals

	Claimed				Approved				Fee Amount Remaining	
	Fees	Expenses		Total	Fees	Expenses		Total	After Approved	After Approved and Pending
		Travel	Other			Travel	Other			
<b>Total Claimed/Approved:</b>	\$15,945.60	\$661.90	\$223.78	\$16,831.28	\$4,344.40	\$141.49	\$13.15	\$4,499.04	\$11,364.90	\$2.90

**Expert and Other Services Budget - Requiring Authorization**

Defendant: John Doe

Voucher Dates	Voucher Number	Claimed			Approved			Voucher Info		
		Fees	Expenses		Total	Fees	Expenses		Claim Status	Circuit Approved
			Travel	Other			Travel	Other		

Authorization Number: 0970.0662475      Amount Requested: \$8,250.00      **Amount Authorized: \$7,500.00**      Attorney: David Attorney  
 Specialty: Investigator

**Vendor: Susie Privateye (Investigator)**

07/02/2018 to 01/18/2019	0970.0672569	\$5,467.50	\$506.88	\$31.06	\$6,005.44	\$5,385.00	\$506.88	\$31.06	\$5,922.94	Interim 1	
02/10/2019 to 02/22/2019	0970.0799600	\$367.50	\$0.00	\$0.00	\$367.50	\$360.00	\$0.00	\$0.00	\$360.00	Interim 2	
03/04/2019 to 03/26/2019	0970.0809955	\$1,470.00	\$83.52	\$0.80	\$1,554.32	\$1,252.50	\$83.52	\$0.80	\$1,336.82	Interim 3	
<b>Total Claimed/Approved:</b>		<b>\$7,305.00</b>	<b>\$590.40</b>	<b>\$31.86</b>	<b>\$7,927.26</b>	<b>\$6,997.50</b>	<b>\$590.40</b>	<b>\$31.86</b>	<b>\$7,619.76</b>		
Pending Approval:		\$0.00	\$0.00	\$0.00	\$0.00						

**AUTHORIZATION TOTALS**  
 Authorization Number: 0970.0662475      Amount Requested: \$8,250.00      Amount Authorized: \$7,500.00      Attorney: David Attorney  
 Specialty: Investigator

	Claimed			Approved			Fee Amount Remaining			
	Fees	Expenses		Total	Fees	Expenses		After Approved	After Pending and Approved	
		Travel	Other			Travel	Other			
<b>Total Claimed/Approved:</b>	<b>\$7,305.00</b>	<b>\$590.40</b>	<b>\$31.86</b>	<b>\$7,927.26</b>	<b>\$6,997.50</b>	<b>\$590.40</b>	<b>\$31.86</b>	<b>\$7,619.76</b>	<b>\$502.50</b>	<b>\$502.50</b>
Pending Approval:	\$0.00	\$0.00	\$0.00	\$0.00						

Authorization Number: 0970.0665591      Amount Requested: \$3,025.00      Amount Authorized: \$3,025.00      **Deactivated**      Attorney: David Attorney  
 Specialty: Paralegal Services

Vendor: Polly Paralegal (Paralegal Services)

