

Date: April 16, 2020

To: Panel Attorneys in California's Appellate Indigent Defense Counsel Program

From: Jonathan Soglin, Executive Director, FDAP
Richard Lennon, Executive Director, CAP/LA
Laurel Thorpe, Executive Director, CCAP
Elaine A. Alexander, Executive Director, ADI
Patrick McKenna, Executive Director, SDAP

Re: Efforts of Appellate Projects in Light of COVID-19 Pandemic

All of California's appellate projects hope that this memo finds you safe and healthy. We understand that COVID-19 has created challenges for many people. In order to lessen panel attorneys' anxiety about their case work during these uncertain times, the appellate projects and Judicial Council of California (JCC) have implemented the following practices:

ADDITIONAL INTERIM CLAIMS

In response to COVID-19, trial courts have reduced their operations. Fewer cases are going to trial or otherwise being resolved, thereby resulting in fewer appeals. Similarly, some trial courts have reduced the number of clerks preparing appellate records.

We understand that this may temporarily reduce the workload for panel attorneys, as you receive fewer new cases and wait longer for completed appellate records. In response, panel attorneys now have the option to file additional interim claims, which will help increase panel attorneys' cash flow during this time.

First, an early, pre-AOB interim claim may be filed in two types of cases: (1) where the record length exceeds 1,500 pages, and (2) where counsel has been waiting for an augmented or corrected record longer than 90 days. For these types of early interim claims, counsel will only be compensated for time spent on record review (Line 2 on the Hours Worksheet). All other categories of work can and should be billed on the interim claim submitted after the AOB is filed, as is standard practice.

Second, an additional, post-AOB interim claim may be submitted after the reply brief is filed. For this type of claim, the only additional time billed should be for time spent on drafting the reply brief itself (Line 8 on the Hours Worksheet) and for reviewing the opposing brief (Line 10 on the Hours Worksheet).

No showing of hardship must be made in order for counsel to file either of these additional types of interim claims. The new policies will apply through December 15, 2020. For any other hardship issues, please contact the project overseeing the case.

CALIFORNIA SUPREME COURT CLAIMS

Though not necessarily related to COVID-19, we have heard from several panel attorneys about ongoing delays with the processing of California Supreme Court claims. As an initial matter, counsel should ensure that he or she files an STD 204 form at the time of appointment on his or her first California Supreme Court case. This form can be accessed [here](#) (*external link to PDF*).

The completed form should be emailed to Alberto Cruz with the JCC's Accounting Unit at: Alberto.Cruz@jud.ca.gov. When e-mailing the completed form, be sure to indicate whether you have a current appointment or claim pending with the Supreme Court.

If a panel attorney has filed an STD 204 form and is still having problems with Supreme Court payments after the claim has been submitted, you should contact the projects to get assistance in determining the reason for the delay. For cases from CAP/LA, CCAP, ADI, or SDAP, please contact CAP/LA Assistant Director Jay Kohorn (jay@lacap.com) and provide him information about your case and claim. He will work with you to follow up on it. For cases from FDAP, please contact claimsprocessors@fdap.org.

SUBSTITUTION OF COUNSEL

We know that social distancing measures have altered the lives of panel attorneys in many ways. If illness, childcare, or homeschooling responsibilities affect your ability to handle a case, please let the appellate projects know. In some instances, substitution of counsel or a long extension of time may be necessary or appropriate. We anticipate that the appellate courts will be understanding if the effects of COVID-19 prevent an attorney from finishing work on a given case. Similarly, please rest assured that none

of the appellate projects will hold this against a panel attorney in regards to the future assignment of cases. Counsel should always contact the appellate project administering the case before seeking to withdraw.

We hope these measures will help you during these unprecedented times. If you need assistance in any other way, please feel free to reach out to the projects, and we will help however we can.