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February 11, 2016

Honorable Judge Kathleen Cardone, Chair  
Committee to Review the CJA Program  
Thurgood Marshall Federal Judiciary Building  
One Columbus Circle  
Washington, D.C. 20544

**Re: *Eastern District of California***  
***CJA Panel District Representative Testimony***

Dear Honorable Judge Cardone and Honorable Committee Members:

Thank you for the opportunity to appear and present testimony at the Committee's public hearing in San Francisco in March. The purpose of this letter is to provide my advance input regarding the CJA Panel here in the Eastern District of California.

I have been practicing criminal law exclusively since February of 2004. I am certified as a Criminal Law Specialist by the State Bar of California, Board of Legal Specialization. I have been a member of CJA Panel since January of 2008. Approximately 60% of my case load is comprised of cases from the CJA Panel. The other 40% of my case load comes from two other indigent defense panels in California state court and, on occasion, privately retained cases.

In January of 2015, I began my three year term as the CJA Panel District Representative for the Eastern District of California. Before then, since 2013, I was the District's back-up CJA Representative.

***Eastern District of California***

The Eastern District of California encompasses 34 counties and spans along the eastern side of the state – from the northern most border with Oregon, all the way south to the border of Los Angeles County. The length of the District from the north end to the south end is approximately 600 miles.

Because of the geographic size of the District, the CJA panel is divided between two main groups, one in Sacramento and one in Fresno/Bakersfield; a smaller Panel group exists in Redding. Federal Courthouses with District and Magistrate judges are in Sacramento and Fresno; Redding, Yosemite, and Bakersfield federal courts have only magistrate judges. Sacramento and Fresno/Bakersfield each have a separate "Panel Administrator" for case assignments and voucher processing. Due to the distance between the Sacramento Courthouse and the Fresno Courthouse, attorneys at the trial level are generally assigned cases only in Sacramento or Fresno, but not both. However, there are exceptions to that policy on rare occasion.

In order ensure adequate representation, the CJA District Panel Representative position is rotated every three years between an attorney in the Sacramento group and an attorney in the Fresno group. In addition, if the CJA Panel Representative is a Sacramento based attorney for a particular three year term, then a “back-up representative” will be chosen from Fresno for the same term, and vice versa. The back-up representative becomes the actual representative for the next three year term. This ensures that both groups have adequate representation and an advocate to address the particular nuances of the either the Sacramento or Fresno group.

There are approximately 60 attorneys in the Sacramento group of CJA Panel attorneys and 48 in the Fresno group. The Sacramento group of CJA Panel attorneys are appointed to approximately 260 to 350 cases per year (4 to 6 cases per attorney) and the Fresno group is appointed to approximately to 260 to 300 cases per year (5 to 6 cases per attorney). Cases are generally assigned on a rotation basis, with some minor exceptions. The cases are assigned by a Panel Administrator.

Applications for the CJA Panel are reviewed annually by a Selection Committee. Applications come from new applicants as well as from existing CJA Panel attorneys who are renewing their application. Typically, one to four new applicants are accepted each year. These new applicants start with a limited case load and are assigned a more experienced attorney as a mentor. Renewing applicants are renewed for either a one, two, or three year term based on the Selection Committee’s evaluation of the application and experience observing the attorney. The Selection Committee that reviews the applications is composed of CJA Panel Attorneys, the Federal Defender, an attorney from private practice not on the CJA Panel, and an attorney from the local Public Defender’s Office (state court). The District Panel Representative also attends the Selection Committee meeting as a non-voting member.

CJA Panel Attorneys are required to attend a one-hour training session once per month. This session is coordinated by Federal Defender’s Office and features various guest speakers. These speakers are often Assistant Federal Defenders or other experienced CJA Panel attorneys. I have had the honor of speaking at three of the training events myself. Of course, CJA Panel attorneys also have access to many of the services and programs offered by the Training Services Division of the Defender Services Office.

### ***Case Budgeting and Mega-Case Issues***

The invitation to participate in this Committee’s upcoming hearing stated a particular interest in case budgeting and mega-cases. The Eastern District of California has had limited exposure to the budgeted mega-cases. As such, my input on this issue is also limited. Feedback from other attorneys has been varied. One attorney found the process helped them plan in advance what they needed to do in a case. However, most feedback involved concern that the party overseeing the process might not have the trial experience necessary to understand what is reasonably necessary to defend a large federal case. In addition, I received some feedback that the process was “onerous.” My own input, which was echoed by another colleague, is that it can be difficult to forecast what will be needed in a case, even if that forecast is only one fiscal quarter at a time.

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*Opportunities*

As the District Representative, and former “back-up representative,” I frequently communicate with the CJA Panel attorneys about the status of the Panel. Not surprisingly, sometimes these conversations involve compensation.

Most of the attorneys are aware that the current attorney compensation rate of \$129 per hour is below the statutorily authorized maximum rate which the Judiciary could request of Congress. The current rate is also well below the market rate for attorneys accepting privately retained cases. While the CJA Panel in the Eastern District of California is composed of excellent attorneys, the current rate makes it difficult to attract more experienced federal practitioners into the panel. As a result, most of the applicants for the Panel have limited experience in federal court.

Like myself, many of the attorneys on the CJA Panel also practice in the state court’s indigent defense panels which are run by each county. Often, new CJA Panel attorneys will have had experience with the state court’s panel. These new attorneys are generally surprised to learn that the District Judge presiding over their federal case is also the person who will personally review their voucher.<sup>1</sup> It still seems very awkward to me as well. Generally, claims for attorney compensation in state court cases are reviewed by an administrator within the panel who is an attorney with former trial experience.

My perspective of the awkwardness of the current structure is two-fold. First, it is difficult for an attorney to explain to the District Judge that additional time was necessary for such items as handling a difficult or uncooperative client without compromising the view the District Judge may have of the client. Second, it seems unusual for a busy District Judge to be spending time on such an activity. It seems to me that an opportunity exists to restructure who approves vouchers. However, I should note that I have spoken with other CJA Panel Attorneys who do not find it awkward for the District Judge to be reviewing the voucher. In fact, in discussing this with a senior attorney on the CJA panel, the attorney found value in having the judge review vouchers because the judge had familiarity with the case.

Thank you again for the opportunity to participate in your important charter to review the CJA program. I look forward to answering the Committee’s questions at the upcoming hearing in San Francisco.

Very truly yours,

/s/ Scott N. Cameron

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Attorney at Law

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<sup>1</sup> Prior to the District Judge reviewing the voucher, the CJA Panel Administrator performs a “technical review” (as opposed to a “reasonableness review”) to ensure that the attorney’s claim for compensation is complete and complies with guidelines.

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