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POINTS OF INTEREST

JAC'S NEWSLETTER FOR COURT-APPOINTED
AND INDIGENT FOR COSTS ATTORNEYS AND
DUE PROCESS VENDORS

A Word From JAC's Executive Director

Happy New Year from the Justice Administrative Commission (JAC)! I hope you find this latest edition of Points of Interest (JAC's Newsletter for Court-Appointed and Indigent for Costs Attorneys and Due Process Vendors) helpful and informative. Included is an update on JAC's court-appointed funding as well as other pertinent information. Please let us know how we can serve you better.



Rip Colvin
JAC Executive
Director

JAC Funding Update

JAC appreciated the patience of attorneys and due process providers during last year's funding shortfall. It was a difficult situation that, sadly, was unavoidable. However, JAC anticipates no funding issues this fiscal year. As of December 31, 2019, JAC is projecting sufficient funding to reach the conclusion of the state fiscal year on June 30, 2020. If any funding concerns arise, information will be promptly posted on JAC's website and social media.

As directed by the General Appropriations Act, the Florida Legislature's Office of Program Policy Analysis & Government Accountability (OPPAGA) issued Report 19-18 on Due Process Services in December 2019. This report reviewed other states' due process and court-appointed counsel cost containment approaches to identify options for cost containment while preserving the constitutional rights of indigent defendants accused of crimes. This report is posted on OPPAGA's website:

<http://www.oppaga.state.fl.us/summary.aspx?reportnum=19-18>

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Reporting Bar Disciplinary Actions

Per Paragraph V(2) of the Registry Contract, an attorney is required to report any disciplinary proceeding in which probable cause has been found to JAC and the Chief Judges of the circuits in which the attorney is participating in a court-appointed registry. When notifying JAC, the attorney should provide proof that the attorney has already notified the appropriate Chief Judge(s). Failure to report a disciplinary action may result in adverse action by JAC. As part of JAC's contracting process, JAC Contract staff verifies the status of attorneys through the Florida Bar's website.

Submission of Unnecessary and Duplicate Documents via Email

JAC has noticed an ongoing trend of unnecessary and duplicate document submissions via pleadings@justiceadmin.org, particularly via the E-portal. Unless a pleading relates to a matter in which JAC has an interest (such as a motion for attorney fees, due process costs, or related expenses), JAC should not be included on list of parties to be served via the E-portal. The volume of extraneous pleadings received impacts JAC Legal's ability to promptly respond to motions pertinent to JAC.

Similarly, documents should not be submitted using multiple methods. If an attorney elects to serve a pleading by the E-portal, a second copy of the pleading should not be submitted via a direct email. Similarly, if an attorney sends JAC a copy of the pleading prior to filing, it is not necessary to re-serve JAC with the same pleading after JAC responds indicating JAC takes no position as to the motion. JAC maintains an electronic copy of all pleadings in an Electronic Document Management System (EDMS).

When submitting motions or other pleadings to pleadings@justiceadmin.org, a confirmation email confirming receipt is automatically sent. Please do not resubmit the pleading or request a status update on the pleading unless a response is not received within five business days. Also, before requesting a status update on a pleading, please verify that JAC has not already provided a response.

Timely Submission of Case Opening Documents in Court-Appointed Cases

As indicated in JAC's last newsletter, pursuant to Paragraph II(5) of the Registry Contract, JAC has the authority to impose an administrative processing fee of \$25 when an attorney fails to provide JAC with the necessary case opening documents within 90 days following the date of appointment. JAC will begin enforcing the \$25 administrative processing fee for any court-appointed cases opened more than 90 days after the date of appointment starting April 1, 2020. **Any case not opened timely on or after April 1, 2020, will be subject to the \$25 administrative fee.**

JAC Online Support Team

The JAC Online Support Team (formerly the JAC Help Desk) remains a resource available to attorneys and due process vendors. The Online Support Team is here to provide information and assistance associated with:

- Understanding and complying with JAC Policies and Procedures;
- Understanding and meeting audit requirements;
- Tracking payments;
- Working through IT error messages; and
- Requesting review of penalty or audit deficiency notices.

Because there are three full-time and one part-time Online Support Team employees which handle the entire state, the Team is not able to take live calls. The Team strives to handle the inquiries in the order presented and to provide the most up to date information regarding the aforementioned areas. The goal is to provide answers within one to two business days. Given that some of the issues raised require considerable time consuming research, JAC has determined that the best service is provided through the email system. When submitting an email to the Team, please provide as much detail as feasible.

The former Help Desk email address (helpdesk@justiceadmin.org) is no longer available. Please reset your Outlook contacts to include the new address: onlinesupportteam@justiceadmin.org.

Please visit JAC's website page at <https://www.justiceadmin.com/support/support.aspx> to obtain tips regarding payment status, bill tracking, and other useful information.

Attorney Hourly Billing Contract Compliance Issues

For attorneys seeking hourly compensation, there are a couple of contract provisions that JAC will start enforcing. First, as part of any billing seeking extraordinary compensation, Paragraph XI(1) of the Registry Contract requires the attorney to provide a separate explanatory statement identifying the factual and legal issues that render the case extraordinary and unusual.

Second, hourly billings must comport with the requirement of Paragraph XI(3) of the Registry Contract:

Attorney shall only bill in hours and tenths of hours, and services shall be listed in chronological order beginning with the date of Attorney's appointment to the case. The hourly statement shall include a single entry for in-court time and a single entry for out-of-court time for each date billed. Attorney shall bill the actual amount of time spent on each date billed rounded to the nearest tenth of an hour. When Attorney includes multiple services in a single entry, the amount of time attributable to each service shall be indicated in the description of the services.

(Emphasis supplied.) Billings may be rejected if they do not comply with these contractual provisions.



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**Please Take a Short
Survey To Provide
Feedback**

[https://](https://www.surveymonkey.com/r/WHP3Q6Q)

www.surveymonkey.com/r/WHP3Q6Q

For comments, suggestions,
and/or submissions for the
next bi-annual newsletter,
please contact:

Ana Cristina Martinez
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or

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Assistant General Counsel

Phone:
(850) 488-2415

Email:
christian.lake@justiceadmin.org

**If you suspect misuse
of state funds in
private court-
appointed or indigent
for costs cases, please
let us know via the
JAC TIPS FORM
or call JAC Online
Support at
(844) 522-5463.**

Contents of Motion for Due Process Costs

JAC has noticed a trend of lengthy motions seeking due process costs that often contain long cites to case law regarding the right to due process costs. Such language is generally unnecessary for a motion for due process costs. With the exception of a motion seeking transcripts, a motion for due process costs should contain the following:

- What is being requested (the type of services being requested and provider if known);
- The amount being requested for the services and the hourly rate (if seeking to exceed the rates established by law or if there is no rate established for the services being requested); and
- The facts justifying the request (typically a short statement establishing the particularized need for the requested services).

If an attorney believes it is necessary to include additional legal argument, this information should be included as a legal memorandum, either attached or incorporated into the motion after the requested relief.

A motion for transcripts should reflect sufficient information to identify the proceedings to be transcribed, rather than an amount being requested.

Common examples include the following:

- Deponent and date of deposition.
- Hearing type and date of hearing.
- Witness name and date of audio/video recording.
- Type of recording (i.e., 911 calls or jail calls) and date of recording.

It is not necessary to include a dollar amount in a motion for transcripts because the amount payable is typically determined by the length of the transcript produced. Please be aware that, in the absence of a specific request for expedited rates delineated in the motion, any order authorizing transcripts will be limited to rates for regular delivery.

JAC also maintains model motions and orders on its website at:

https://www.justiceadmin.com/court_app_counsel/motionorder.aspx

Revised Indigent for Costs Attorney Fee Affidavit

JAC has posted revised model attorney fee affidavits for indigent for costs cases. The revised affidavits contain more information that will help the JAC and the courts assess whether a defendant should be found indigent for costs. Please utilize these affidavits when submitting a motion to declare a defendant indigent for costs. The revised affidavits are located at:

https://www.justiceadmin.com/court_app_counsel/motionorder.aspx?dc=ifcdiv