

CJA SECOND CHAIR PROGRAM FOR THE DISTRICT OF UTAH

To sustain and strengthen Utah's federal defense bar into the future.

The CJA Committee¹ for the District of Utah announces establishment of the Second Chair Program (the Program) for licensed attorneys who do not yet have the requisite federal experience for membership on the Criminal Justice Act Panel. Attorneys in the Program will assist members of the CJA Panel in a "second-chair" capacity and will gain the necessary experience required to provide high quality representation in federal criminal cases to individuals who cannot afford to pay for those services.² The first year of the Program will be a Pilot Program on which the ongoing program will build and improve.

Authority. The Committee adopts this Program pursuant to the local CJA Plan and the Guide to Judiciary Policy, which encourages a CJA Committee to "[e]ngage in recruitment efforts to establish a diverse panel and ensure that all qualified attorneys are encouraged to participate in the furnishing of representation in CJA cases."³ With this Program, Utah will join many other judicial districts with similar mentoring programs to ensure future CJA Panel membership.⁴

Second Chair Attorneys⁵. In its first stages, the Program will invite two to three attorneys to participate, and as the Program progresses it may expand. These attorneys will be known as "second chair attorneys" to the lead attorney CJA panel member who they are assisting on cases. Second chair attorneys will be experienced in criminal defense with: trial experience outside of the federal system, excellent oral and written advocacy skills, a strong reputation, and a demonstrated commitment to representing people who cannot afford to pay for a lawyer. They must be admitted to practice in the District of Utah and must be members good standing with the Utah State Bar. Acceptance into the program is not a guarantee of future CJA Panel membership, but the Program will help attorneys obtain the skills necessary for future panel membership and or independent practice in federal court.

Program Administration. The CJA Supervising Attorney at the Utah Federal Public Defender's Office will be the primary point of contact for this Program, and will manage the

¹ Utah's CJA Panel Committee comprises, both a current and former magistrate judge, the Federal Defender, the Panel Representative, the CJA Supervising Attorney, and three CJA Panel attorneys with significant federal criminal defense experience.

² See 18 U.S.C. § 3006A; Guide to Judiciary Policies and Procedures (Guide), Volume 7.

³ 2018 CJA Plan, at 15 (requiring the establishment of a "mentor and second chair program"); and Guide, Vol 7A, Appx. 2A, at 15.

⁴ For example, similar programs exist across California districts, in Kansas' two districts, Minnesota, New Jersey, two New York Districts, Oklahoma, Vermont, two Washington districts, and elsewhere.

⁵ The CJA panel attorney in each case shall be the court-appointed counsel and the "lead attorney," while the new attorneys in the Program are "second-chair" attorneys.

day-to-day operations, by recruiting applicants and CJA Mentors, guiding attorneys on Program requirements, working with judges to appoint second chair attorneys on appropriate cases, reviewing vouchers for reasonableness, and soliciting feedback on the Program.

Compensation. Appropriate CJA Act compensation will be provided to second-chair attorneys through eVoucher, when they perform case-related work as co-counsel on appointed CJA cases. Compensation of CJA mentees is authorized by Volume 7, Chapter III, Part A, §310.20.10(A) of the Guide to Judiciary Policies and Procedures.⁶ Currently the attorney associate rate is \$95 per hour for case-related work, and the second chair attorney rate will be tied to that rate. No attorney—second chair or lead—may bill for time spent primarily on training.

Second chair attorneys must submit CJA 20 Vouchers monthly or when they reach \$1,000 of case work, to ensure regular review by the CJA Supervising Attorney, who may contact the lead attorneys for information about the accuracy and reasonableness of the second chair attorney's billing.

Program Term. Attorneys must commit to participate for two years in the Program, and while this may be more or less time than is necessary to complete all casework, the two-year commitment is required. During the two years, the second-chair attorney must maintain good standing with the Utah State Bar and membership with the U.S. District Court for the District of Utah.

Program Requirements. All second-chair attorneys must attend the half day training on August 18th from 9 a.m. - 1 p.m. at the Utah Federal Public Defenders. Additional training requirements will include those provided by the Office of Defender Services, eVoucher usage, and CJA record keeping. All second chair attorneys should, during their time in the Program, attend all FPD/CJA CLE trainings and will need to record the relevant trainings they attend to provide to the CJA Supervising Attorney as requested.

Second chair attorneys must be familiar with and use the following programs:

- CMECF: <https://www.uscourts.gov/court-records/electronic-filing-cmecf/faqs-case-management-electronic-case-files-cmecf>
- PACER: <https://pacer.uscourts.gov/>
- eVoucher use to track billing:
https://evsdweb.ev.uscourts.gov/CJA_utx_prod/CJAeVoucher/Logon.aspx

Second chair attorneys are not permitted to independently practice in federal court through

⁶ Attorneys who serve in “mentoring programs” may be compensated “under the CJA at a reduced associate rate with prior authorization by the court.” *Guide*, Vol 7A, Appx. 2A.

the Program before attending at least six hours of legal training in federal defense topics, which must include pretrial proceedings (client interviews, pre-trial services, detention arguments, working with jails, bail, etc.); discovery (including ESI), plea agreements, mandatory minimums, and mitigation and sentencing work. To complete the Program, second chair attorneys must provide significant, supervised work on at least four federal cases and must observe any two felony trials during the Program.

CJA Lead Attorneys. Existing CJA panel attorneys will voluntarily serve as lead attorneys to the second chair attorneys depending on their availability and willingness to mentor newer attorneys. More than one CJA panel attorney may serve as a lead attorney to a single second chair attorney. All lead attorneys will be compensated under the normal CJA Attorney rate for all case-related work as they supervise and guide their work with the goal of ensuring second chair attorneys are exposed to core federal procedure and substantive law. CJA lead attorneys should, as soon as possible after appointment on appropriate cases, move the court to appoint the second chair attorney as co-counsel. Such Motions should be filed under seal and *ex parte*. Lead attorneys must request pre-authorization of additional funds through eVoucher before their work with a second chair attorney reaches a case maximum.

Dated: July 2022