



NEWS FROM U.S. DISTRICT COURT September 9, 2022

NextGen CM/ECF Release 1.6. As we mentioned in the August Newsletter, tomorrow we will be upgrading our electronic filing system to make it more secure. The changes will impact your ability to upload and view PDF documents. More information is available on our website.

Witness Payment in CJA Cases. The October 2021 newsletter described how to prepare and file ex parte motions for criminal subpoenas if you are appointed counsel under the Criminal Justice Act. In this newsletter, we address payment issues. If the court grants your motion and issues subpoenas, there are special rules you must follow so that your witnesses get paid.

1. Preparing DOJ-3 Form

As counsel, it is your responsibility to prepare a [DOJ-3 form](#) for *each* witness who testifies. The form should be completed *after* the witness has testified and the court has excused the witness. You must attach to the completed form a copy of the applicable subpoena and a Google map printout showing round trip mileage for the witness. If the witness stayed in a hotel, you must also attach an itemized receipt. The [rules](#) and a [sample DOJ-3 form](#) are available on the court's website.

2. Submitting DOJ-3 Form

After a witness testifies and the form and attachments are prepared, they must be submitted to the Clerk's Office for certification. Once certified, the Clerk's Office will deliver the documents to the United States Marshals Service for processing and payment, which can take up to 28 days.

Sentencing Scheduling Orders. On occasion attorneys call the Clerk's Office to ask about sentencing scheduling orders. Usually, they are concerned they have missed an order. Remember, not all judges enter scheduling orders. Instead, they rely on [Crim. LR 32.1](#), which establishes deadlines consistent with Rule 32 of the Federal Rules of Criminal Procedure.

Under the local rule, if a sentencing date is set and a scheduling order is not entered, the Probation Office must file the Draft Presentence Report “no later than 35 days before sentencing.” Once the Draft Presentence Report is filed, the parties then have “14 days to file and serve objections.” If there are no objections, counsel must file a Notice of No Objections to Presentence Report in CM/ECF.

Counsel must also file letters of support “no later than 28 days after the Draft Presentence Report is filed.” The Final Presentence Report is due “no later than 7 days before sentencing . . .” Motions for departure or variance or sentencing memoranda must also be filed no later than 7 days before sentencing. Crim. LR 32.1 C.