

1st Degree Felony _____
 2nd Degree Felony _____
 3rd Degree Felony _____
 State Jail Felony _____

Misdemeanor _____
 Capital _____
 Death _____
 Appeal _____
 Civil _____

STATE OF TEXAS
 VS. _____

CASE No. _____

JIMS No. _____

ATTORNEY _____
 ADDRESS _____

FOR COUNTY AUDITOR'S OFFICE USE ONLY	
Atty Fee Number _____	Date Entered _____
Vendor Number _____	
Trans Code: 200	
Index & Sub-Obj: COUNCIL-6856	

This case is set for: _____
 at _____ m. in _____ Court.

CLAIM FOR SERVICES OR EXPENSES

Service IN Court	Date	Hours/Tenths	This area for Auditor use only
A. Arraignment			
B. Bond / Bail			
C. Examining Trial			
D. Habeas Corpus			
E. Judge's Conference			
F. Pre-trial Motions			
G. Trial/Plea			
H. New Trial Motions			
I. Revocation			
J. Other			

Total Time: 0 _____

Multiply total in court time by \$65.00 per hour,

Total **IN** Court Claim: **\$0.00** _____

Service OUT of Court	Date	Hours/Tenths	This area for Auditor use only
K. Interviews and Conferences			
L. Obtaining and reviewing records			
M. Legal research and writing			
N. Other			

Total Time: 0 _____

Multiply total out of court time by \$50.00 per hour,

Total **OUT** of Court Claim: **\$0.00** _____

COURT APPROVED REIMBURSABLE EXPENSES

O. Long distance telephone service		** NOTE **
P. Copies		All receipts for reimbursable items R,S, and T must be attached. Total Expenses: \$0.00 Total Claim: \$0.00
Q. Photographs		
R. Witness fee **		
S. Travel **		
T. Mileage to / from Jail Annex .40 cents a mile **		

ATTORNEY CERTIFICATION

I swear and affirm the truth and correctness of the above statement. I CERTIFY THAT I HAVE NOT SUBMITTED ANY OTHER VOUCHER ON THIS CASE OR; I CERTIFY I HAVE FILED A VOUCHER FOR

ON _____, 20 _____

Attorney Signature _____
 State Bar No. _____

ORDER APPROVING PAYMENT

The above voucher is approved to the amount of _____

JUDGE: _____ DATE: _____

Excess payment approval

JUDGE: _____ DATE: _____

I further certify that no other funds from any other source have been received as payment on this case.
 I further certify that any other funds received from any other source in payment on this case are fully disclosed and attached.

COUNCIL OF JUDGES ADMINISTRATION

ATTORNEY REQUIREMENTS-PROCESS FOR PAYMENT

Date Received: _____ (1) Original to Court for signature, (2) Original and 1 copy to the Council of Judges Administration, (3) Council of Judges Administration signs off on voucher and retains a copy to be forwarded to the District Clerk, (4) Attorney forwards original to County Auditor's Office for payment.
 Received by: _____

Voucher for services on criminal cases must be submitted within 45 days after final court appearance. Failure to comply will result in forfeiture of fee. EFFECTIVE OCTOBER 1, 2010.

THE COURT APPROVES PAYMENT OF A VOUCHER ON CONDITION UPON DEFENDANT'S COUNSEL HAVING FILED A CURRENT SENATE BILL 7 AFFIDAVIT WITH THE COUNCIL OF JUDGES ADMINISTRATION.

**ATTORNEY PAYMENT GUIDELINES & FEE SCHEDULE
INDIGENT REPRESENTATION
EL PASO COUNTY**

An attorney appointed to defend a person accused of a felony or a misdemeanor punishable by imprisonment to represent an indigent in a habeas corpus proceeding, or to represent an indigent in a probation revocation proceeding, shall be paid an attorney's fee, costs of investigation and expert witnesses, and reimbursable expenses from the general fund of El Paso County according to the following schedule.

I. ATTORNEY'S FEE

A. Non-capital Felonies, Misdemeanors, Habeas Corpus Proceedings and Probation Revocation Proceedings.

1. The maximum hourly rates for non-capital felony cases, felony habeas corpus proceedings and felony probation revocation proceedings at the trial court level are **\$65.00** per hour for time expended in court and **\$50.00** per hour for time reasonably expended out of court.
2. The maximum hourly rates for misdemeanors, misdemeanor habeas corpus proceedings and misdemeanor probation revocation proceedings at the trial court level are **\$65.00** per hour for time expended in court and **\$50.00** per hour for time reasonably expended out of court.
3. The maximum hourly rate for preparation and perfection of an appeal to either the Court of Appeals or the Texas Court of Criminal Appeals, is **\$60.00** per hour. The maximum hourly rate for oral arguments before either appellate court is **\$75.00** per hour.
4. Case Maximums per Attorney: The fee paid to each attorney appointed to represent an indigent shall not exceed the following amounts:
 - a. Defendant is charged with one or more felonies (though defendant may ultimately plead guilty to one or more misdemeanors) **\$5,000.00**.
 - b. Defendant is charged with one or more misdemeanors: **\$1,000.00**.
 - c. Representation in an habeas corpus proceeding: **\$1,000.00**.
 - d. Representation in a probation revocation proceeding: **\$750.00**.
 - e. Representation on appeal: **\$5,000.00** on felonies; **\$2,000.00** on misdemeanors.
5. Payment of a fee in excess of the case maximums stated in paragraph A4 above may be made in the following kinds of cases:
 - a. Extended case: a case in which more time is reasonably required for total processing than the average case.
 - b. Complex case: a case in which the legal or factual issues are unusual, thus requiring expenditure of more time, skill, and effort than would be required in the average case.
 - c. In no event shall the hourly in court and out-of-court rates specified above be exceeded.
 - d. An attorney may obtain excess payment by certifying to the trial court that (1) the case was extended, complex, or both and (2) excess payment is necessary to provide fair compensation.
 - e. In order to approve excess payments, the trial court must make the following findings:
 - i. The case was extended, complex, or both.
 - ii. Excess payment is necessary to provide fair compensation. On this issue, the following factors will be considered:
 - a. Responsibilities of the attorney measured by the magnitude and importance of the case.
 - b. Manner in which the attorney performed his/her duties.
 - c. The attorney's knowledge, skill, efficiency, and professionalism.
 - d. Judgement required of and used by the attorney.
 - e. Nature of the attorney's practice and injury to it because of this case.
 - f. Extraordinary pressure of time or other factors.
 - g. Any other relevant factors.
 - f. If the trial court grants the excess payment, the Presiding District Judge (in felony cases) or the Senior County Court at Law Judge (in misdemeanor cases), or two other judges of the same level as the trial court, must also approve the excess payment. If approved, the orders will be submitted to Commissioner's Court for excess payment. If the request for excess payment is denied by the trial court, the case will be submitted to Commissioner's Court for payment of the case maximum set out in paragraph A3 above.
6. Payment of a fee in a case presided by a visiting judge also requires the approval of the trial court judge. The administrative judge may also approve payment in the event that the trial court judge is unavailable.

B. Felonies in which the state seeks the Death Penalty.

1. The maximum hourly rates for pre-trial (prior to voir dire) are **\$65.00** for time expended in court and **\$50.00** per hour for time reasonably expended out of court.
2. The maximum hourly rates for voir dire and trial are **\$125.00** per hour for time expended in court and **\$50.00** per hour time reasonably expended out of court for the 1st chair.
3. The maximum hourly rates for voir dire and trial are **\$100.00** per hour for time expended in court and **\$50.00** per hour for time reasonably expended out of court for the 2nd chair.
4. The maximum hourly rates for a motion for new trial, appeals and writs are **\$125.00** per hour for time expended in court and **\$75.00** per hour for time reasonably expended out of court for the 1st chair.
5. The maximum hourly rates for a motion for new trial, appeals and writs are **\$100.00** per hour for time expended in court and **\$75.00** per hour for time reasonably expended out of court for the 2nd chair.
6. There are no case maximums per attorney unless set by the trial court.
7. Payment of a fee in excess of the case maximum stated in paragraph B6 above may be made in the following kinds of cases:
 - a. Extended cases: A case in which more time is reasonably required for total processing than the average case.
 - b. Complex cases: A case in which the legal or factual issues are unusual, thus requiring expenditure of more time, skill, and effort that would be required in the average case.
 - c. In no event shall the hourly in court and out-of-court rates specified above be exceeded.
 - d. An attorney may obtain excess payment by certifying to the trial court that (1) the case was extended, complex, or both and (2) excess payment is necessary to provide fair compensation.

- e. In order to approve excess payment, the trial court must make the following findings:
 - i. The case was extended, complex or both.
 - ii. Excess payment is necessary to provide fair compensation. On this issue, the following factors will be considered.
 - a. Responsibilities of the attorney measured by the magnitude and importance of the case.
 - b. Manner in which the attorney performed his/her duties.
 - c. The attorney's knowledge, skill, efficiency, and professionalism.
 - d. Judgment required of and used by the attorney.
 - e. Nature of the attorney's practice and injury to it because of this case.
 - f. Extraordinary pressure of time or other factors.
 - g. Any other relevant factors.
- f. If the trial court grants the excess payment, the Presiding District Judge or two District Judges other than the trial court must also approve the excess payment. If approved, the orders shall be submitted to Commissioner's Court of excess payment. If the request for excess payment is denied by the trial judge, the case will be submitted to Commissioner's Court of payment of the case maximum set out in paragraph B3 above.
- g. The trial judge may order interim payments of attorney's fees, investigative and expert witness expenses, and reimbursable expenses when necessary and appropriate.

C. General Provisions

1. When two attorneys are appointed to represent one defendant, each attorney is entitled to the case maximum if the hours spent by each were necessary for an adequate defense. When one attorney is substituted for a previously appointed attorney, each attorney is entitled to the case maximum if the hours spent by each were necessary for an adequate defense.
2. An attorney shall be compensated at the appropriate in-court hourly rate for time spent in court commencing with the time said attorney is required by the court to be present.
3. An attorney's time spent traveling outside El Paso County, Texas, when such travel is necessary for an adequate defense or to adequately prosecute an appeal, shall be compensated, if at all, at the appropriate out-of-court rate with the following limitations:
 - a. Only those hours actually spent in transit shall be compensated. For example, compensable travel time for a plane trip to Austin, Texas, begins at the time the flight is scheduled to leave El Paso and ends at the time the flight arrives in Austin. Compensable travel time for the return trip to El Paso would be computed similarly.
 - b. Travel time shall not be compensated if the round trip time is less than 2 hours.
4. *Article 26.05 §2, Tex. Code Crim. Proc.*, states that the statutory minimum fee will be automatically allowed unless the trial judge orders a greater fee within five days of the date of judgement. Therefore, attorneys are advised to present their vouchers to the trial judge within 2-3 days of the date of judgment.

Fee Schedule Effective Dates

Felonies-October 1, 2008 Death Penalty-October 1, 2008 Misdemeanors-October 1, 2008

II. COSTS OF INVESTIGATION AND EXPERT TESTIMONY

Article 26.05 §1 (a-c), Tex. Code Crim. Proc., limits these expenses to **\$500.00**.

Investigative and Expert Expenses:

Counsel appointed in a non-capital case shall be reimbursed for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts. Expenses incurred with and without prior court approval shall be reimbursed, according to the procedures set forth below. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts.

Procedure With Prior Court Approval:

Appointed counsel may file with the trial court a pretrial ex parte confidential request for advance payment of investigative and expert expenses.

The request for expenses must state, as applicable:

- (1) the type of investigation to be conducted or the type of expert to be retained;
- (2) specific facts that suggest the investigation will result in admissible evidence or that the services of an expert are reasonably necessary to assist in the preparation of a potential defense; and
- (3) an itemized list of anticipated expenses for each investigation or each expert.

The court shall grant the request for advance payment of expenses in whole or in part if the request is reasonable. If the court denies in whole or in part the request for expenses, the court shall:

- (1) state the reasons for the denial in writing;
- (2) attach the denial to the confidential request; and
- (3) submit the request and denial as a sealed exhibit to the record.

Procedure Without Prior Court Approval:

Appointed counsel may incur investigative or expert expenses without prior approval of the court. On presentation of a claim for reimbursement, the court shall order reimbursement of counsel for the expenses, if the expenses are reasonably necessary and reasonably incurred. Unreasonable or unnecessary expenses will not be approved.

III. REIMBURSABLE EXPENSES

- A. The following are the only kinds of expenses which will be reimbursed if a proper request for reimbursement is made (see B below):

1. Travel expenses for the attorney, witnesses, experts, and/or investigators, only if prior court approval has been obtained.
2. A court reporter's fee for depositions only if prior court approval has been obtained.
3. Long distance telephone calls.
4. Copying.
5. Photographs.
6. Other expenses required to adequately defend the case only if prior court approval has been obtained.
7. Mileage reimbursement to and from Jail Annex, destination points to and from Jail Annex must be listed.

B. Requirements for obtaining reimbursement of the above expenses.

1. The attorney must attach to the voucher an itemized statement of each expense listing the date, kind, and amount of the expense and must supply supporting documents for any expense over **\$40.00**.
2. Regarding computer assisted legal research, the attorney must provide a statement of the issues researched, and estimate of the number of hours of attorney time required if the research has been done manually and a copy of the bill.

THE COURT APPROVES PAYMENT OF A VOUCHER ON CONDITION UPON DEFENDANT'S COUNSEL HAVING FILED A CURRENT SENATE BILL 7 AFFIDAVIT WITH THE COUNCIL OF JUDGES ADMINISTRATION.

(REVISED 8/26/10)