



POINTS OF INTEREST

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

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A Word from JAC's Executive Director

Greetings from the Justice Administrative Commission (JAC)! I hope you find this latest edition of ***Points of Interest*** helpful and informative. Included is information about the reorganization and amendments to JAC's Registry (Court-Appointed), IFC, Capital Collateral and Due Process Vendor Contracts; legislative increases to dependency attorney flat fees and investigator rates; court reporter and interpreter billing requirements; and other pertinent information.



**Alton L. "Rip"
Colvin, Jr.**

Updates to JAC Contracts for Fiscal Year 2023-24

The JAC reorganized and amended the following five contracts for payment of services provided in court-appointed and indigent for costs cases for the upcoming Fiscal Year 2023-24.

1. Registry Contract (for state-funded court-appointed legal representation to indigent defendants);
2. Capital Collateral Contract (for state-funded court-appointed legal representation to indigent Capital Collateral defendants);
3. IFC Contract (an attorney contract for state payment of court-authorized due process services provided to indigent persons where a statutory or constitutional right to such costs exists);



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4. Due Process Vendor Contracts (for direct payment to vendors of due process services provided to indigent defendants (other than attorney fees):
 - a. Type 1 – For Due Process Costs Limited to Established Rates (Court Reporters, Investigators, Mitigation Specialists); and
 - b. Type 2 – For Vendors Providing Extraordinary Services (Experts).

The amendments are as follows and their location is specified in *italics*:

1) General Reorganization

Similar provisions have been grouped together under descriptive headings in order to promote better understanding by all interested parties.

2) Deletion of Duplicative Provisions

Duplicative provisions in the Registry and Capital Collateral contracts regarding attorney record keeping requirements and prohibition against unilaterally amending JAC's contracts have been deleted.

3) Deletion of outdated references

JAC deleted clauses from various provisions throughout the contracts regarding appointments prior to July 1, 2007, as there are no active appointments to which they apply.

4) Requirement to Provide one Physical Copy of Transcript

To ensure that incarcerated defendants without computer access can obtain a physical copy of a transcript, court reporters must now provide at least one physical copy of any transcript paid for at JAC expense to defense counsel.

Registry Contract IV(17); Capital Collateral Contract IV(16); IFC Contract IV(17); and Due Process Contracts IV(10).

5) Notification of Pending Criminal Charges

Attorneys and due process vendors will now be required to notify JAC of any pending criminal charges against them.

Registry Contract II(24); Capital Collateral Contract II(20); IFC Contract II(22); and Due Process Contracts II(16).

6) Due Process Vendor License Information Requirement

This amendment requires all due process vendors to provide JAC with any license, registration, certification, or degree information upon which the vendor is relying in the provision of services.

Due Process Contracts II(14).



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7) Amended Letters, Charts, or Other Correspondence

In order to ensure the court has the most current information regarding the status of any unresolved issues at the time of the hearing, the contracts specify that attorneys must provide the court with any amended Letters of Objection, charts, or other correspondence JAC may send after the attorney files a motion for fees.

Registry Contract V(15) & V(20); Capital Collateral Contract V(10) & V(15); and IFC Contract V(7).

8) Good Faith Effort to Resolve Objection(s) to Extraordinary Billings

Attorneys will be required to make a good faith effort to address JAC's objections prior to a hearing. An attorney's failure to respond in good faith to JAC's objections or concerns raised constitutes acceptance of the objections or concerns. When an attorney makes no effort to address or resolve JAC's stated objections prior to a hearing this results in a lengthy evidentiary hearing or a continuance by the court for the attorney to address JAC's objections prior to the next hearing.

Registry Contract V(27).

9) Scheduling Hearings and Confirming Hearing Details

An attorney seeking to set a hearing without the requisite notice (20 days' notice of a hearing seeking extraordinary compensation and 10 days' notice of other hearings) must first clear the date and time with JAC Legal and provide the necessary information for JAC to appear, such as: calling instructions, Zoom or Microsoft Teams information, or other pertinent information.

Registry Contract V(18); Capital Collateral Contract V(13); and IFC Contract V(11).

10) Increase in Hotel Rate

This amendment increases the maximum rate for lodging to \$225 per day to conform to recent legislative amendments. *See SB 2502, s. 77.*

Registry Contract II(11); Capital Collateral Contract II(7); IFC Contract II(10); and Due Process Contracts II(6).

11) Motion Requirements in Capital Collateral Cases

These provisions require Capital Collateral attorneys to attach various documents to any motion for compensation in excess of statutory limitations including the bill, the required Explanatory Statement establishing extraordinary and unusual efforts, and JAC's Letter of Objection. These provisions mirror language in the Registry Contract.

Capital Collateral Contract V(15) & (20).



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12) Service of Motion to Withdraw in Capital Collateral Cases

Court-Appointed Capital Collateral attorneys must serve JAC with any Motion to Withdraw. This language mirrors language in the Registry Contract.

Capital Collateral Contract II(5).

Dependency Attorney Flat Fee & Investigator Rate Increases

The Florida Legislature passed the General Appropriation Act (Senate Bill 2500) on May 5, 2023, including several increases to the rates applicable to state-funded court-appointed attorney fees and due process costs effective July 1, 2023. Please know that these increases will only go into effect if the General Appropriations Act is approved by the Governor or otherwise becomes law. These changes include the following:

- Private investigator services increase from \$40 per hour up to \$50 per hour;
- First-year dependency flat fee for attorneys increase from \$800 to \$1,450;
- Second and subsequent year dependency flat fee for attorneys increase from \$200 to \$700;
- Dependency appeal flat fee for attorneys increase from \$1,000 to \$1,800;
- First-year termination of parental rights (TPR) flat fee for attorneys increase from \$1,000 to \$1,800;
- Second and subsequent years TPR flat fee for attorneys increase from \$200 to \$700;
- TPR appeal flat fee for attorneys increase from \$2,000 to \$3,500; and
- Dependent child with special needs flat fee per child, per year for attorneys increase from \$1,000 to \$1,450.

Implementing Attorney Flat Fee Increases

Per the terms of the Registry Contract, an attorney's date of appointment will determine the applicable flat fee. Paragraph III(1) of the Registry Contract provides as follows:

Attorney shall be paid in accordance with the schedule of fees prescribed by the Florida Statutes and the General Appropriations Act in effect at the time of Attorney's date of appointment. Attorney agrees and acknowledges that the compensation to be paid pursuant to this Registry Contract shall be the sole, exclusive, and full compensation to which Attorney shall be entitled for cases Attorney is appointed to pursuant to this Registry Contract.



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Dependency/TPR Flat Fee Increases

The flat fee paid to attorneys appointed to Dependency and TPR cases will be determined based on the rate effective on the date of their appointment, or the anniversary date of the appointment. For example:

- A new dependency appointment is made on June 28, 2023. The first-year flat fee would be \$800 (fee in effect on date of appointment). If the case remained open after June 28, 2024, the second-year flat fee would be \$700 (fee in effect on the anniversary date).
- A new dependency appointment is made on July 5, 2023. The first-year flat fee would be \$1,450 (fee in effect on date of appointment). If the case remained open, the second-year flat fee would be \$700 (fee in effect on the anniversary date).
- A new TPR appointment is made on June 28, 2023. The first-year flat fee would be \$1,000 (fee in effect on date of appointment). If the case remained open, the second-year flat fee would be \$700 (fee in effect on the anniversary date).
- A new TPR appointment is made on July 5, 2023. The first-year flat fee would be \$1,800 (fee in effect on date of appointment). If the case remained open, the second-year flat fee would be \$700 (fee in effect on the anniversary date).
- An existing dependency or TPR case has an anniversary date of July 20, 2023. The first-year flat fee would be \$1,000 (fee in effect on date of appointment). The subsequent year flat fee would be \$700 (fee in effect on the anniversary date).

The following chart helps illustrate the applicable dependency flat fee for each year based on the original appointment date:

Date of Appointment	1st Year Payment	2nd Year Payment	3rd Year Payment	4th Year Payment	5th Year Payment
7/1/23 forward	1450	700	700	700	700
7/1/22 – 6/30/23	800	700	700	700	700
7/1/21 – 6/30/22	800	200	700	700	700
7/1/20 – 6/30/21	800	200	200	700	700
7/1/19 – 6/30/20	800	200	200	200	700

In order to be eligible for the second or subsequent year payments, the case must remain open past the anniversary date of the appointment.

Appellate Flat Fee Increases

Again, the applicable flat fee will be determined by the date of appointment. Appointments on or after July 1, 2023, for dependency appellate cases, the attorney may bill a flat fee of \$1,200 upon filing of the initial brief or the granting of a motion to withdraw. If a brief is filed and the attorney previously billed \$1,200 upon filing of the



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brief, the attorney may bill an additional flat fee of \$600 upon rendition of the mandate.

Similarly, for TPR appellate cases, the attorney may bill a flat fee of \$1,750 upon filing of the initial brief or the granting of a motion to withdraw. If a brief is filed and the attorney previously billed upon filing of the brief, the attorney may bill an additional flat fee of \$1,750 upon rendition of the mandate.

Please know that an attorney is not required to bill upon the filing of a brief. An attorney may elect to bill the full flat fee upon issuance of the appellate court mandate as long as the attorney filed a brief.

Investigator Rate Increases

As to the investigator rate increase, the applicable rate will be determined by the date of service. Services that occurred prior to July 1, 2023, will remain at the \$40 per hour rate. Services that occur on or after July 1, 2023, will be paid at the increased rate of \$50 per hour.

Though not required, to facilitate bill processing and payment, please submit separate bills for services occurring prior to July 1, 2023, and for services occurring on or after July 1, 2023.

Court Reporter Billing Requirements

As a reminder, orders authorizing transcripts must contain the following minimum information, as applicable, to be sufficient for payment purposes:

- (1) the date and type of hearing;
- (2) the first and last name of the deponent and the date of deposition;
- (3) the first and last name of the witness and the date of the recording; or
- (4) the type of recording and date of recording.

Similarly, an order authorizing appearance fees (or a notice of taking deposition relied upon for payment purposes) must include the full name (first and last) of the witness.

Full Names Are Required for Payment

JAC continues to implement best practice measures to comply with Florida Statutes and contractual requirements. These measures ensure that no duplicate payments are made, as well as help attorneys ensure that they have not inadvertently requested or approved duplicate depositions or transcripts constituting prohibited double billing.



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JAC has received an increased number of court reporter motions and orders listing deponents by first initial and last name only. For transcripts of deponent or witness testimony, including law enforcement officers, the motion and order (or notice of taking deposition) must identify the full name of the witness. Only when the witness' name is confidential, such as minors, may they may be identified by initials alone. This is especially important with when listing law enforcement officers. For example, the order must list the Officer's full name; i.e., *Officer Jim Smith*, as opposed to *Officer Smith*, so JAC can differentiate between officers with the same last name.

Interpreter/Translator Billing Requirements

Beginning July 1, 2023, interpreters and translators must submit a detailed hourly statement with all invoices.

The detailed hourly statement must include the language being translated, the name of service provider, the start and end times of the translation session(s), the length of the media, the date the media was recorded or the date of deposition, and the file name of the media or full name of deponent or witness. The hourly invoice must also comport with the requirements for hourly statements as set forth in the [JAC Policies and Procedures for Due Process Vendors](#). If the detailed hourly statement is not included with these requirements, the invoice may be rejected, thus delaying payment.

JAC Phone Numbers/Contacting JAC

JAC recently implemented a new phone system resulting in changes to phone extensions. If you have an extension number for JAC personnel on file, please be aware that they are no longer valid.

When contacting JAC Legal, you will be asked to provide your name, who you are calling on behalf of, and the reason for the call. As a general rule, simply asking to speak with an attorney or paralegal will not suffice. In most instances, you will be directed to provide your information in writing as follows:

- General questions about motions (such as the status of a response to a motion or motion requirements) will be directed to pleadings@justiceadmin.org;
- General legal questions will be directed to pleadings@justiceadmin.org;
- Court-appointed billing questions and issues will be directed to the [JAC Online Support Team](#); and
- *MyJAC* technical issues (such as uploading documents or navigating the system) will be directed to the [JAC Online Support Team](#).



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Bill Submission upon Discharge from a Case

JAC continues to experience delays in payment due to attorneys not promptly submitting bills for cases where the attorney is discharged prior to final disposition and another attorney is appointed. Although attorneys cannot be paid until a case reaches final disposition per s. 27.5304(3), F.S., bill submission upon discharge allows JAC to pay more promptly once the case reaches final disposition. JAC therefore requests that attorney who are discharged from a case submit a bill (or fee waiver) as soon as feasible.

Currently, JAC issues a Notice of Billing on Hold when the prior attorney has opened the case with JAC, but has not billed. The Notice lists the attorneys appointed to the case. This Notice then qualifies as a Letter of Objection once 90 days have passed since final disposition allowing successor counsel to set the matter for hearing.

Effective July 1, 2023, upon submission of a bill from successor counsel, JAC will instead issue a Letter of Objection where the prior attorney has opened the case with JAC but has not billed and it has been more than 180 days since the prior attorney was discharged from the case. This will allow successor counsel to set the matter for hearing more expeditiously. Successor counsel would still be required to notify any prior counsel of the hearing on the motion for attorney fees.

A hearing is not necessary where the attorneys have agreed to a division of the flat fee and/or all other court-appointed attorneys have waived their right to compensation. For purposes of agreeing to a division of the flat fee, JAC has posted a [Attorney Settlement Agreement for Splitting the Flat Fee](#). Upon execution of this Agreement, the attorneys should amend their bill by uploading a copy of the Agreement through *MyJAC* as a miscellaneous document.