

SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO POLICY ON SPECIAL CIRCUMSTANCE CASE APPOINTMENTS

The Superior Court of California, County of Fresno (hereinafter “Court”) hereby adopts this policy on special circumstance case appointments for the following purposes:

To maintain a panel of qualified attorneys to provide competent and quality legal representation for indigent defendants in special circumstance cases pursuant to Penal Code section 190.2;

To evaluate attorneys for panel placement on the basis of relevant legal education and experience;

To provide fair opportunities for appointment to the panel list, and ensure equal access to appointments for all qualified attorneys; and

To adopt cost effective plans for the appointment and compensation of attorneys, investigators and experts to provide legal representation and related services for indigent defendants.

The Court reserves the right to adopt alternative policies and/or procedures as deemed necessary.

I. SPECIAL CIRCUMSTANCE CASE PANEL REVIEW

The Presiding Judge of the Court or designee shall be responsible for administering all aspects of the special circumstance case panel process in accordance with this policy.

Any materials submitted to the Court regarding the appointment of an attorney and fees shall be deemed confidential and are not subject to discovery.

II. SCOPE OF SERVICES PROVIDED

Appointed counsel shall provide complete legal defense services for represented defendants to include all appropriate and necessary legal defense services of the nature typically provided by the Public Defender. Such services shall include, but are not limited to, interview and preparation time, all necessary court appearances, hearings, motions, court waiting time, trial at the trial court level and writ proceedings through sentencing, and the filing of any notice of appeal that may be required by Penal Code section 1240.1. Also included are all necessary legal research, preparation of documents, secretarial, clerical, paralegal and other support services, and travel within the County of Fresno. Appointed counsel shall be responsible for providing all such services within the applicable case category attorney fee.

All further statutory references are to the Penal Code unless otherwise specified.

Fees for any necessary investigators, experts, interpreters, or other persons are to be paid from the section 987.9 funds advanced for the authorized category. Fees paid for services must not exceed the hourly rates set forth in Appendix C under Compensation Guidelines, unless pre-approved by the Court. Appointed counsel shall be responsible for maintaining complete records of all services provided.

III. SPECIAL CIRCUMSTANCE CASE CATEGORY DESCRIPTION AND RATES

Case categories and applicable fees shall be as set forth in Appendix C. Compensation will be based on the case category.

The category and applicable fees to be applied to any particular case shall be determined by the Court at the time of approval of an appointment.

The Court retains the right to revise category descriptions and applicable fees at any time. Such revisions shall apply to all appointments made after the revisions are adopted, unless, in the discretion of the Court, it is determined that the revisions shall apply to a pre-existing appointment.

IV. LEAD AND ASSOCIATE COUNSEL PANELS

A. Panels

A panel of qualified criminal law attorneys has been established to represent indigent defendants in special circumstance cases in the Court in accordance with this policy.

A panel of qualified criminal law attorneys has also been established for appointment as associate counsel in capital cases in the Court in accordance with this policy.

B. Appointments to and Removal from Panels

An attorney who meets the minimum qualifications may request to be added to a panel by submitting an “Application and Agreement” (Appendix A) to the Court. The application shall set forth the specific qualifying legal education and experience of the attorney, and shall include a declaration under penalty of perjury that the information on the application is true and correct. At the time the attorney submits a written application for appointment to the panel, the attorney shall be required to sign and submit a written waiver under California Code of Civil Procedure section 360.5 (Appendix B), wherein the attorney shall waive any defense based on statute of limitations to any action which may be commenced against the attorney following the final accounting described in Section VI herein. The Court shall review all applications for the panel and will notify all applicants of the disposition of their application. An attorney who is appointed to a panel agrees to accept appointments in such cases in accordance with this policy. Attorneys added to a panel shall be placed at the end of the established lists for rotation of appointments.

The Court reserves the right to remove an attorney from a panel at any time without prior notice. Upon request by an attorney removed from a panel, the Court may elect to advise the attorney of the reason(s) for such removal.

The Court reserves the right to make the final determination of the composition of a panel.

An attorney not selected for inclusion on a panel may petition for reconsideration by the Court.

C. Minimum Qualifications of Lead Counsel:

Minimum qualifications for special circumstance case lead counsel shall be in compliance with California Rules of Court 4.117(d) or (f).

D. Minimum Qualifications of Associate Counsel:

Minimum qualifications for special circumstance case associate counsel shall be in compliance with California Rules of Court 4.117(e) or (f).

V. APPOINTMENTS TO SPECIAL CIRCUMSTANCE CASES:

A. Rotation of Appointments:

No attorney shall be appointed by the Court as lead counsel or associate counsel for a defendant in a special circumstance case to be tried in the Court unless that attorney is on the approved panel at the time of appointment.

Appointments to special circumstance cases shall be made by rotation in the order that the attorneys' names appear on the list. After appointment to a special circumstance case, that attorney's name shall be placed at the end of the list for future appointment.

B. Number of Appointments:

The Court will select the attorney whose name is at the top of the panel list, unless that attorney is then currently appointed or retained on three pending special circumstance cases in any State or Federal court, in which case the attorney's name shall be placed at the bottom of the panel list. A special circumstance case shall be considered pending until completion of the case at the trial court level, and Court acceptance and approval of the final accounting required by section 987.9 and return of any unexpended section 987.9 funds previously advanced. All attorneys on the panel list shall be responsible for advising the Court of the number of pending special circumstance cases in which they are attorney of record when being considered for appointment to a special circumstance case.

C. Initial Case Review:

Upon notification that a special circumstance panel attorney is needed, the Court will authorize the initially selected attorney to expend up to 25 hours at the approved hourly rate for appointed attorneys in special circumstance cases to review files and available evidence. Appointment is initially

at the Category 1 level. If a category higher than Category 1 is requested, a written declaration must be submitted within 10 court days of the appointment specifying the reasons.

The Court will review any declarations submitted by the attorney and determine the appropriate category and notify the attorney of the category approved. (Appendix H)

If the attorney declines the appointment after initial case review, or notification of approved category, the attorney's name shall be placed at the end of the list for future appointment unless the Court for good cause orders otherwise. An attorney who declines an appointment, subsequently withdraws, or is relieved as attorney of record shall forthwith return all records, reports and other documents obtained during the case to the Master Calendar Manager.

The attorney whose name is next in order on the panel list shall be offered the appointment and shall be authorized to expend up to 15 hours at the approved hourly rate for appointed attorneys in special circumstance cases for initial case review, and will be subject to the same guidelines for filing declarations indicated above for the initially selected attorney.

D. Acceptance of Appointment

The appointment will be deemed accepted at the Category 1 level or, upon filing of a declaration requesting a higher category, at the category approved by the Court unless written notification is received from appointed counsel declining the appointment.

Upon acceptance of an appointment the initial case review fee shall become part of the total attorney fee for the approved category for that case.

An attorney accepting an appointment must be prepared to comply with the readiness requirements of section 987.05.

E. Substitution of Attorney of Record

In the event special circumstances are alleged at any stage of the proceedings following arraignment, the Court may appoint a panel attorney to substitute as the attorney of record for the previously appointed defense attorney. If a panel attorney is appointed for this reason or any other reason following arraignment, attorney fees for services in such case shall include the appointment accepted fee (15%) and continue with subsequently completed payment events unless the Court authorizes additional payment. If new lead counsel is appointed after any scheduled payment event has been completed, \$5000 shall be advanced at the time of approval of Declaration and Order for Payment for acceptance of appointment (Appendix E) and shall be placed in a trust account for payment of section 987.9 expenses. Any unexpended funds shall be returned to the Court with the final accounting.

F. Motion for Appointment of Associate Counsel

Motions for the appointment of associate counsel from the panel shall not be made unless and until the District Attorney formally indicates in writing the intent to seek the death penalty. The motion shall be supported by a proposed order and affidavit of the lead counsel setting forth in detail the factual and legal grounds for appointment of associate counsel, and specifying the particular tasks for which associate counsel will be responsible. If the Court determines that appointment of associate counsel is warranted, an order shall be entered specifying the particular tasks for which the appointment is made. Associate counsel will be appointed from the established associate counsel panel. The order shall set a reasonable fee for such services not to exceed an additional fifteen percent (15%) of the approved category attorney fee for lead counsel, unless lead counsel submits a declaration requesting a greater sum, and the Court finds that greater sums are warranted. Associate counsel compensation shall be separate from and in addition to the category fee paid to lead counsel, and shall be paid on a schedule of fifty percent (50%) of the approved fee upon appointment and fifty (50%) percent upon completion of the trial. Associate counsel fee shall include any expenses and costs. Claims for fees shall be submitted to the Court by associate counsel with a copy to the lead counsel.

G. Notice of Acceptance of Special Circumstance Case

The court is aware that the Agreement between the County and Fitzgerald, Alvarez and Ciummo (FAC) provides that FAC will accept two (2) special circumstance homicide conflict of interest cases per year for each year of the Agreement. These cases will be deemed Category 1 level. For each case accepted by FAC they shall file a Notice of Acceptance with the Court. In the event that FAC is requesting a higher category, the Notice of Acceptance shall include a Declaration in support of higher category with proposed Order re Category. The Court notes that the Category designation is relevant only as to the amount of section 987.9 funds. FAC and the Court recognize that no claims for the payment of attorney's fees shall be made to the court.

VI. COMPENSATION:

A. Claims and Schedule for Payment of Attorney's Fees

All claims for payment to panel attorneys for sums earned must comply with Court guidelines and policies and shall be submitted on the approved form (Appendix D and E).

Upon receipt of initial claim for payment in any special circumstance case, a tracking number will be assigned to the case that is independent of the Court case number. The Declaration and Order for Payment (Appendix E) is the only form that shall contain the independent case number. The name of the defendant, the court case number and any other reference to the defendant shall not be included

on the proposed order. (To maintain the confidentiality requirements of Penal Code section 987.9(a), this is the only document that will be submitted by the Court for payment.)

Payments to panel attorneys shall be made pursuant to the following schedule.

Initial case review fee:

Initially selected attorney-----Up to 25 hours at the approved hourly rate for appointed attorneys in special circumstance cases.

Subsequently selected attorney-----Up to 15 hours at the approved hourly rate for appointed attorneys in special circumstance cases.

Acceptance of Appointment-----15% of category attorney fee (less review fee)

Preliminary Hearing-----25% of category attorney fee

(Must be completed by either preliminary hearing held and completed or waived or resolution of case at the preliminary hearing.)

Trial Confirmation-----15% of category attorney fee

(Must be completed by either confirmation of a trial date or resolution of the case at trial confirmation.)

Conclusion of People's case-----15% of category attorney fee

Completion of Trial-----20% of category attorney fee

Completion of case at trial court level-----10% of category attorney fee

(This payment shall be paid at the conclusion of the case at trial court level and filing of the final accounting.)

Requests for payment must be submitted on a timely basis. Requests submitted over six (6) months from event schedule will be deemed an untimely submission and will not be eligible for compensation. Requests submitted more than 90 days after the event schedule will be reduced by 15% without further notice.

If the death penalty is sought and the District Attorney continues to seek the death penalty within 30 days of the actual commencement of jury selection, the lead panel attorney shall be entitled to receive an additional amount over and above the approved category attorney fee as follows: Category 1-\$30,000; Category 2-\$40,000; Category 3-\$50,000. This payment shall be requested upon actual commencement of jury selection.

B. Claims and Schedule for Payment of Section 987.9 Funds

Additional funds equal to 20% of approved category attorney fee shall be advanced at the time of approval of Declaration and Order for Payment for acceptance of appointment (Appendix E) and shall be placed in a trust account for payment of section 987.9 expenses. Any unexpended funds shall be returned to the Court with the final accounting.

Additional funds equal to 20% of approved category fee shall be advanced to FAC at the time of filing the Notice of Acceptance or upon approval of Declaration and Order re Category and shall be placed in a trust account for payment of section 987.9 expenses. Any unexpended funds shall be returned to the Court with the final accounting.

C. Requests for Additional Compensation

At any time during the pendency of the case, if appointed counsel believes that additional compensation beyond the category level or section 987.9 funds approved is warranted, counsel may apply to the Court for a modification by submitting a “Request for Additional Compensation” (Appendix F), supported by a written declaration setting forth justification for the request. If the request is for additional section 987.9 funds, an accounting of funds previously advanced must be submitted with the request. See page 14 for guidelines on requesting additional PC 978.9 funds.

D. Adjustments to Payments to Appointed Counsel

If a case is dismissed prior to completion of the trial, and the same or similar charges and special circumstance allegations are refiled against the defendant, the panel attorney of record may be reappointed to represent the defendant regardless of any other provision of this policy. Attorney fees for services in such cases shall commence with the payment event following the point where the last payment was received in the original case.

Following arraignment, if proceedings against a special circumstance defendant are resolved (except by dismissal and refile) at any stage prior to completion of the next scheduled payment event, the attorney shall be compensated only for the Completion of Case at Trial Court Level payment event upon filing of the final accounting.

Should special circumstance allegations be dismissed at any stage of the proceedings, appointed counsel shall submit an application to the Court, within ten court days, setting forth the basis for continued payment of the approved case category fee for the duration of the proceedings against that defendant. The Court may approve continued payment of the case category fee or may determine that a lesser fee is appropriate. An associate counsel appointed pursuant to Section V shall be relieved forthwith, and any claim for payment for associate counsel services rendered through the date of termination shall be submitted to the Court for approval.

In the event that the Court declares a mistrial due to appointed counsel’s conduct, the attorney may be relieved and a new counsel from the panel may be appointed.

If a retrial is necessary for any reason, attorney fees for the retrial will commence with the first rescheduled payment event at the previously approved category level. Requests for additional section 987.9 funds must be submitted on the “Request for Additional Compensation” form (Appendix E).

If any other proceedings are required by an Appellate Court ruling, appointed counsel will be compensated for actual hours expended at the approved hourly rate for appointed attorneys in special circumstance cases.

In the event a panel attorney is relieved as attorney of record, that attorney shall submit a final accounting. The attorney shall only be entitled to compensation through the last completed payment event and for any actual time, at the approved hourly rate for appointed attorneys in special circumstance cases, and costs incurred since that time.

E. Payment for Change of Venue:

If a motion for change of venue is granted by the Court in any special circumstance case, lead and associate attorneys may be compensated for travel, mileage, food and lodging expenses incurred by the attorney as a result of the venue change. Such compensation shall be paid at the rates established by the Administrative Office of the Courts for travel and per diem expenses. Claims for reimbursement of such expenses shall be approved by the Court prior to submission to the Auditor/Controller.

F. Final Billing/Final Accounting

A final billing must be submitted within 60 days of termination of the case at the trial court level. At the time of the submission of the final billing, a final accounting of the advanced section 987.9 funds must be submitted on the form approved by the Court as set forth in Appendix G. Pursuant to section 987.9, the final accounting must be supported by a chronologically arranged journal of all receipts and disbursements of trust funds, including the date, check number and purpose of each disbursement, and supporting documentation to include orders authorizing expenses or rates, all cancelled checks or **original** bank statements showing paid checks, **original** receipts, invoices, and other documentation of all disbursements. The attorney shall return any unexpended section 987.9 funds previously advanced when the final accounting is submitted. If the final billing and accounting is not timely received, panel attorneys may not be eligible for further appointment to special circumstance cases until such final accounting is received. The final accounting will be subject to review by the Court and the Fresno County Auditor/Controller. Lead attorneys will be required to retain accounting records of appointed cases for audit purposes for five (5) years following sentencing or dismissal of the case.

Travel, mileage, food and lodging expenses will be governed by applicable Administrative Office of the Courts Travel Reimbursement Provisions.

VII. NON-COURT PROVIDED COMPENSATION

If appointed counsel receives any non-court provided compensation in the form of cash payments or compensation for experts or any other direct or indirect financial support from any person or entity the Court shall be notified immediately.

VIII. PRO BONO PUBLICO SERVICES

A. Reasonable Compensation:

Each attorney accepting an appointment pursuant to this policy understands and agrees that the fees set forth herein constitute reasonable compensation for a competent and quality defense for a defendant in a special circumstance case, and for the services required under this policy.

B. Pro Bono Publico Services:

In the event that an attorney expends time or provides services to a client which, when compared to the total compensation provided under this policy would equate to an hourly rate for such services that is below the prevailing market rates for such services, the attorney agrees that as to any difference between these fees and the attorney's usual and customary fees, such services have been provided Pro Bono Publico, and the attorney waives any further claims therefor.

IX. CONSTRUCTION

No portion of this policy shall be construed so as to preclude constitutionally mandated judicial action, as determined by the Court.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO

**Application and Agreement for Special Circumstance Case
Indigent Criminal Defense Panel**

Application for: Lead Counsel Associate Counsel

Last Name	First	Initial	Firm Name
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Office Address	City	Zip	Phone Number
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Mailing Address	City	Zip	Phone Number
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Law School	Date Graduated	State Bar Number
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Date Admitted to Bar	Date Began Practice
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Attach a copy of current State Bar membership card.

Have you been the subject of a disciplinary proceeding by the State Bar of California or by the Bar of any other State?

Yes No

If yes, attach a detailed description of the nature, date, case number and result of the disciplinary proceeding.

I agree to waive confidentiality for the sole purpose of enabling the State Bar of California to notify the Superior Court of California, County of Fresno, Special Circumstance Case Indigent Criminal Defense Panel of the status of any disciplinary proceeding against me.

I declare under penalty of perjury under the laws of the State of California that the statements on this application are true and correct.

Date

Signature

PLEASE COMPLETE PAGE 2

ATTORNEY QUALIFICATIONS

(Pursuant to California Rules of Court 4.117(d), (e) & (f))

LEAD COUNSEL: Be an active member of the State Bar of California. Be an active trial practitioner with at least 10 years’ litigation experience in the field of criminal law. Have prior experience as lead counsel in either (a) at least 10 serious or violent felony jury trials, including at least 2 murder cases, tried to argument, verdict, or final judgment; or (b) at least 5 serious or violent felony jury trials including at least 3 murder cases, tried to argument, verdict or final judgment. Be familiar with the practices and procedures of the California criminal courts. Be familiar with and experienced in the use of expert witnesses and evidence, including, but not limited to, psychiatric and forensic evidence. Have completed within two years prior to appointment at least 15 hours of capital case defense training approved for Minimum Continuing Legal Education credit by the State Bar of California; and have demonstrated the necessary proficiency, diligence, and quality of representation appropriate to capital cases.

ASSOCIATE COUNSEL: Be an active member of the State Bar of California. Be an active trial practitioner with at least 3 years’ litigation experience in the field of criminal law. Must have prior experience as (a) lead counsel in at least 10 felony jury trials tried to verdict, including 3 serious or violent felony jury trials tried to argument, verdict, or final judgment; or (b) lead or associate counsel in at least 5 serious or violent felony jury trials including at least 1 murder case, tried to argument, verdict or final judgment. Be familiar with the practices and procedures of the California criminal courts. Be familiar with and experienced in the use of expert witnesses and evidence, including, but not limited to, psychiatric and forensic evidence. Have completed within two years prior to appointment at least 15 hours of capital case defense training approved for Minimum Continuing Legal Education credit by the State Bar of California; and have demonstrated the necessary proficiency, diligence, and quality of representation appropriate to capital cases.

ALL ATTORNEYS: List applicable cases underlining murder cases. Attach a copy of the first and last docket pages for each case to this application. Applications will be returned if complete information is not provided. This form must be submitted in typewritten form.

<u>Case No. and Name</u>	<u>Court</u>	<u>Year Filed</u>
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- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

CONTINUING EDUCATION: List 15 hours of capital case defense training approved for minimum continuing legal education credit by the State Bar of California that have been completed within the last two years.

<u>Course Title</u>	<u>Course Description</u>	<u># of Hours</u>
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MO/DA/YR

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

Proof of current malpractice insurance covering the type of legal representation services provided by panel attorneys must be attached to this application. Such insurance shall provide liability coverage of at least \$500,000 per claim.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO

WAIVER OF STATUTE OF LIMITATIONS

Pursuant to California Code of Civil Procedure section 360.5, I, _____, in submitting my notice of acceptance of any and all special circumstance case appointments, hereby waive any statute of limitations defense in any action which may be commenced by the Court or by the County of Fresno against me stemming from compensation paid to me or paid to any Penal Code section 987.9 investigators and experts. Any such action may be filed following the final accounting referenced in Section VI of the Superior Court of California, County of Fresno Policy on Special Circumstance Case Appointments.

I specifically acknowledge the text of Code of Civil Procedures section 360.5, which provides:

No waiver shall bar a defense to any action that the action was not commenced within the time limited by this title unless the waiver is in writing and signed by the person obligated. No waiver executed prior to the expiration of the time limited for the commencement of the action by this title shall be effective for a period exceeding four years from the date of expiration of the time limited for commencement of the action by this title and no waiver executed after the expiration of such time shall be effective for a period exceeding four years from the date thereof, but any such waiver may be renewed for a further period of not exceeding four years from the expiration of the immediately preceding waiver. Such waivers may be made successively. The provisions of this section shall not be applicable to any acknowledgment, promise or any form of waiver which is in writing and signed by the person obligated and given to any county to secure repayment of indigent aid or the repayment of moneys fraudulently or illegally obtained from the county.

DATE: _____

SIGNATURE OF ATTORNEY

NAME OF ATTORNEY
(Please print)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO

SPECIAL CIRCUMSTANCE CASE CATEGORIES AND ATTORNEY FEE RATES AND COMPENSATION GUIDELINES FOR PENAL CODE SECTION 987.9 EXPENSES

CASE CATEGORIES AND ATTORNEY FEE RATES

Approved hourly rate for appointed attorneys in special circumstance cases -----\$102/hr
This rate shall be utilized when a category fee or scheduled payment event is not applicable.

CATEGORY 1 – ATTORNEY FEE RATE \$60,000

A special circumstance case involving one defendant and one victim.

CATEGORY 2 – ATTORNEY FEE RATE \$95,000

A more difficult special circumstance case than a Category 1 case involving one defendant and one victim or more than one victim killed in the same incident, or complex factual or legal issues in the trial or penalty phase warranting associate counsel may be considered a Category 2 case. A special circumstance case with more than one defendant that would be considered a Category 1 case if there was only one defendant may be considered a Category 2 case.

CATEGORY 3 – ATTORNEY FEE RATE \$130,000

A special circumstance case involving one defendant and more than one victim killed in more than one incident or at different times; or a case that is significantly complicated by unusual publicity or notoriety over a limited period of time, or complex factual or legal issues in the trial or penalty phase that would warrant associate counsel may be considered a Category 3 case. A special circumstance case with more than one defendant, that would be a Category 2 case if there was only one defendant, may be considered a Category 3 case.

OTHER:

For unique special circumstance cases that receive a great amount of publicity or notoriety over an extended period of time, or involve multiple victims or incidents, lead counsel may submit a written declaration to the Court with justification for a fee higher than established category fees. The Court shall determine if a higher fee is warranted.

If the death penalty is sought and the District Attorney continues to seek the death penalty within 30 days of the actual commencement of jury selection, the lead panel attorney shall be entitled to receive an additional amount over and above the approved category attorney fee as follows: Category 1-\$30,000; Category 2-\$40,000; Category 3-\$50,000. This payment shall be requested upon actual commencement of jury selection.

Policy Percentage Chart		Category 1	Category 2	Category 3
LEAD COUNSEL		60,000.00	95,000.00	130,000.00
20%	987.9 funds	12,000.00	19,000.00	26,000.00
15%	Acceptance of Appointment	9,000.00	14,250.00	19,500.00
25%	Preliminary Hearing	15,000.00	23,750.00	32,500.00
15%	Trial Confirmation	9,000.00	14,250.00	19,500.00
15%	Conclusion of People's Case	9,000.00	14,250.00	19,500.00
20%	Completion of Trial	12,000.00	19,000.00	26,000.00
10%	Conclusion of attorney services at trial court level and filing and approval of final accounting	6,000.00	9,500.00	13,000.00
ASSOCIATE COUNSEL		9,000.00	14,250.00	19,500.00
50%	Acceptance of Appointment	4,500.00	7,125.00	9,750.00
50%	Completion of the Trial	4,500.00	7,125.00	9,750.00

PENAL CODE SECTION 987.9 COMPENSATION GUIDELINES

An additional amount equal to 20% of approved attorney fee shall be advanced for expenditure by attorney at the following hourly rates:

Experts:

Physician	\$150-\$500
Psychiatrist	\$150-\$350
Neuropsychologist.....	\$150-\$350
Psychologist	\$150-\$350
Forensic Pathologist	\$150-\$350
DNA	\$100-\$200
Drug & Alcohol.....	\$100-\$150
Eyewitness Identification	\$100-\$150
Blood Splatter	\$75-\$150
Criminalist.....	\$75-\$125
Other Expert Services	as determined by Court

Investigatorsup to \$65/hr

Paralegals/Law Clerks.....up to \$35/hr

NOTE: All other claimed expenses, such as mileage or travel expenses where applicable, must comply with Superior Court guidelines and policies governing such charges, and with applicable Administrative Office of the Courts policies and procedures.

Request for Additional PC 987.9 Funds

Request for additional PC 987.9 funds must be submitted with written declaration and proposed order:

- Identifying who is being appointed and in what capacity (e.g., Dr. Laura I. Feelgood, M.D. expert witness).
- Stating the vendors hourly fee and the maximum amount sought including any requests for travel or mileage but not both.
- Specifying that the funds will either be advanced to counsel, and are to be placed in counsel’s trust account for payment of such services, or the vendor will submit billing directly to the court.
 - If vendor will be billing directly to the court, the attorney is responsible for notifying vendor of Claims Processing Policy for Court-Appointed Vendor.
 - All vendor claims must first be reviewed for submission by attorney. Attorney signature is required.
 - Attorney must provide the vendor the independent case number provided by Claims Processing for submission of billings.
- Stating that the funds will be paid by the County of Fresno.
- Should funds be advanced to counsel for payment of vendor services, the order must specify that at the conclusion of the case, counsel will submit to the Court a final accounting of the funds counsel disbursed for the services sought and that counsel will return to the Court, by means of a check made payable to the County of Fresno, any remaining fund balance.

Written declaration and proposed order must be submitted with Appendix E and Appendix F with an accounting of PC 987.9 funds granted to date.

Name and address of attorney:	Telephone no.:
Attorney for:	

SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO

PEOPLE OF THE STATE OF CALIFORNIA,)
)
Plaintiff,)
)
 vs.)
)
)
Defendant.)

COURT CASE NO. _____

**CLAIM FOR COMPENSATION OF
ASSOCIATE ATTORNEY IN CAPITAL CASE**

The Court having previously authorized associate attorney’s fee compensation at the Category ___ level in the amount of \$_____, the undersigned attorney for the defendant hereby requests payment for the following amount because the scheduled payment event has been completed and the attorney is entitled to compensation therefore.

- () Appointment Accepted (50% of Category Attorney Fee) \$ _____
 - () Completion of the Trial (50% of Category Attorney Fee) \$ _____
- TOTAL \$ _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: _____

Attorney for Defendant

Name and address of attorney:	Telephone no.:

SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO

INDEPENDENT CASE NUMBER _____

Declaration and Order for Payment

I, _____, declare, under the penalty of perjury, that the work for which payment is being requested has been approved as submitted to the Court and:

- is to be completed upon receipt of approved funding.
- was performed and the approved amount is to be reimbursed.

DATED: _____
_____ Attorney

ORDER

___ The Court having reviewed the claim for compensation and good cause appearing payment in the amount of \$_____ for attorney fees is hereby approved.

___ The Court orders funds of \$_____ be advanced at this time. These funds are to be placed in a trust account for payment of approved expenses.

DATED: _____
_____ Presiding Judge or Designee

Name and address of attorney:	Telephone no.:
Attorney for:	

SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO

PEOPLE OF THE STATE OF CALIFORNIA,)
)
 Plaintiff,)
)
 vs.)
)
 Defendant.)

COURT CASE NO. _____

**APPOINTED COUNSEL'S FINAL ACCOUNTING
OF DISBURSEMENT OF FUNDS PURSUANT
TO PENAL CODE SECTION 987.9**

I, _____, attorney for defendant, declare under penalty of perjury, that the following is a true and correct accounting of the expenditures for the preparation and presentation of the defense in the above-entitled Special Circumstance Case, pursuant to the requirements of Penal Code section 987.9.

TOTAL Penal Code section 987.9 FUNDS ADVANCED: \$ _____

Penal Code section 987.9 funds expended:

- A. Physician \$ _____
- B. Psychiatrist \$ _____
- C. Neuropsychologist \$ _____
- D. Psychologist \$ _____
- E. Forensic Pathologist \$ _____
- F. DNA \$ _____
- G. Drug & Alcohol \$ _____
- H. Eyewitness Identification \$ _____
- I. Blood Splatter \$ _____
- J. Criminalist \$ _____
- K. Investigators \$ _____
- L. Paralegals/Law Clerks \$ _____
- _____ \$ _____
- _____ \$ _____

TOTAL PENAL CODE SECTION 987.9 FUNDS EXPENDED \$ _____

REMAINING BALANCE (if any) \$ _____

Check # _____ in the amount of \$ _____ for the refund of unexpended Penal Code section 987.9 funds previously advanced is enclosed.

(Please make check payable to County of Fresno.)

(Attach all original receipts and bank statements and copy of original and any subsequent order authorizing compensation.)

DATED: _____

Attorney for Defendant

Pursuant to the requirement of Penal Code section 987.9, the Court finds the accounting of the expenditures reasonable for the preparation and presentation of the defense.

DATED: _____

Presiding Judge or Designee

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO

People of the State)	COURT CASE NO.
of California,)	_____
)	
Plaintiff,)	
)	<u>ORDER SETTING COMPENSATION</u>
v.)	
)	
,)	
)	
Defendant.)	
_____)	

The Court having read and considered the Proposal Setting Compensation and good cause appearing, the following is authorized for appointed counsel, _____:

- 1. Category ___ attorney fees of \$_____.
- 2. An amount of \$_____ for Penal Code 987.9 funds.

Penal Code 987.9 funds are to be placed in a trust account and used for expert witness, investigator and other section 987.9 expenditures at the rates approved by the Court payment guidelines. Application for additional section 987.9 funds may be submitted for the Court's consideration. Any unexpended section 987.9 funds are to be returned to the Court upon filing of the final accounting in this matter.

Dated:

Presiding Judge or Designee