

# Suspended February 28, 2012

## UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

### NOTICE OF SPECIAL PROCEDURES FOR REVIEWING ATTORNEY COMPENSATION REQUESTS IN DEATH PENALTY CASES

**PLEASE TAKE NOTICE** that the Fourth Circuit Judicial Council adopts the attached resolution governing review of attorney compensation requests in federal capital prosecutions under Title 18 or 21 of the United States Code as well as federal and state death penalty habeas corpus cases under 28 U.S.C. § 2254 or 28 U.S.C. § 2255.

In federal capital prosecutions, any request for compensation in excess of \$100,000 per attorney at the district court level or \$50,000 per attorney at the appellate level is presumptively excessive. In 28 U.S.C. § 2254 or § 2255 capital cases, any request for compensation in excess of \$50,000 per attorney at the district court level or \$30,000 per attorney at the appellate level is presumptively excessive. Any attorney's fee request which is presumptively excessive must be fully justified by the requesting attorney in a written submission filed with the presiding judicial officer in the district court, or in the case of an appeal, with the chief judge of the circuit or his/her designee.

These procedures will take effect March 1, 2012, subject to revision in light of any comments received. Interested parties may submit comments on or before February 15, 2012, to:

Samuel W. Phillips  
Circuit Executive  
1100 East Main Street, Suite 617  
Richmond, Virginia 23219

January 4, 2012  
Date

/s/ Samuel W. Phillips  
Samuel W. Phillips  
Circuit Executive

THE JUDICIAL COUNCIL OF THE FOURTH CIRCUIT

SPECIAL PROCEDURES FOR REVIEWING ATTORNEY COMPENSATION

REQUESTS IN DEATH PENALTY CASES

Consistent with the request of the Judicial Conference of the United States, the Judicial Council of the Fourth Circuit adopts the following amendment(s) to its existing procedures for review of requests for attorney compensation in federal capital prosecutions under Title 18 or 21 of the United States Code as well as federal and state death penalty habeas corpus cases under 28 U.S.C. § 2254 or 28 U.S.C. § 2255.

(1) In federal capital prosecutions, any request for compensation in excess of \$100,000 per attorney at the district court level or \$50,000 per attorney at the appellate level is presumptively excessive.

(2) In 28 U.S.C. § 2254 or § 2255 capital cases, any request for compensation in excess of \$50,000 per attorney at the district court level or \$30,000 per attorney at the appellate level is presumptively excessive.

(3) (a) Any attorney's fee request which is presumptively excessive must be fully justified by the requesting attorney in a written submission filed with the presiding judicial officer in the district court, or in the case of an appeal, with the chief judge of the circuit or his/her designee.

(b) In the case of a district court submission, the district judge receiving the request for excess payment will forward the request to the chief judge of the circuit or his/her designee with a statement recommending approval or denial of the request and the reasons for the recommendation.

(c) The amount of the fee to be awarded to the attorney who has sought a presumptively excessive fee shall ultimately be determined by the chief judge of the circuit or his/her designee.

(4) At the conclusion of all federal capital prosecutions and federal and state death penalty habeas corpus cases in which a notice of appeal has been filed to the circuit court, the

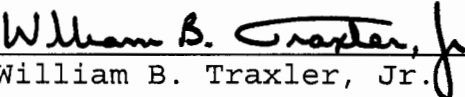
district court shall forward copies of all CJA vouchers approved by the district court regardless of the total amount of the vouchers.

(5) In clemency proceedings, all clemency vouchers submitted to the district court, regardless of amount, shall be forwarded to the chief judge of the circuit or his/her designee with a statement indicating approval or denial of the request and the reasons for the recommendation.

ADOPTED:

For the Council:

Date: 12/6/11

  
\_\_\_\_\_  
William B. Traxler, Jr.  
Chief Judge