



# County of San Diego

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## OAC PROCEDURES

### HOW TO FILE YOUR MOTION FOR "RETAINED INDIGENT" STATUS

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Dear Retained Defense Attorney:

On OAC's website where this procedural document can be found you will also find sample pleadings you may choose to use as templates for your own pleadings if you decide to seek a court order authorizing government assistance in the funding of reasonable and necessary ancillary services in a criminal case in which you are serving as retained counsel. OAC refers to such matters as "Retained Indigent" cases since they originated as "retained" matters but now involve a claim of "indigency" for ancillary service funding purposes. Also included on OAC's website are Billing Procedures that you will need to be familiar with if you have a Retained Indigent case with OAC.

Please remember that the fact counsel has been retained in a case creates a presumption that the client in question is not indigent for purposes of providing for his or her defense. Accordingly, the burden will be on retained counsel to overcome that initial presumption and persuade the court that the client is in fact indigent and, therefore, eligible for county funded ancillary services. Any request for funding approval for particular ancillary services must also be adequately supported by justification information clearly establishing that the requested services are reasonable and necessary for presenting a defense in the case.

The following are the key steps required in the process of filing documents to request County assistance in the funding of ancillary services in "Retained Indigent" matters, and also the documents you must provide to OAC for OAC's internal file opening purposes:

- 1) You will need the following documents: (a) a fee agreement signed by the retained attorney plus the client and any other persons or entities who or which may be financially responsible for payment of the attorney fees and/or costs on the case, (b) a declaration from the retained attorney in support of the request for government assistance in the funding of ancillary services on a retained case, (c) a Motion seeking a court order authorizing such government funding assistance, (d) Points & Authorities in support of the motion, (e) the client's financial

declaration demonstrating indigency (a court form), (f) a declaration from the defendant in support of ex parte ancillary fees, and (g) the proposed court Order.

- 2) Take the original and two copies of the pleadings to the San Diego Superior Court's felony business office at 1100 Union Street, San Diego, CA 92101 and file those pleadings at the counter with the clerk. The required documents should be filed with the court as confidential sealed documents not available to the public or the prosecution. The court will not entertain these types of requests ex parte, but the Superior Court's Supervising Criminal Judge in department 102 usually rules upon them soon after submission.
- 3) The San Diego County Superior Court's Supervising Criminal Department, currently Department 102 in the Central courthouse in downtown San Diego, handles all Retained Indigent requests for all four judicial districts in the entire County; so your request must be submitted through the Downtown Central Court regardless of where the case is otherwise being heard.
- 4) The Superior Court's Supervising Criminal Judge will not agree to sign the proposed Order you initially submit. Instead, the Judge will sign an Order directing you to first "meet and confer" with OAC representatives in an effort to reach some stipulations regarding your request. The Court will not forward the order and application to OAC for review. It is the filing counsel's responsibility to pick up the filings from the business office and forward them to OAC. The documents, along with the latest charging document, can be mailed, hand delivered or sent via e-mail message to OAC at [OAC@SDCounty.CA.gov](mailto:OAC@SDCounty.CA.gov). OAC's Director and/or staff attorney will review your submission and draft a "RETAINED INDIGENT STANDARD STIPULATED ORDER." OAC will file the stipulated order in Department 102 with the anticipation that the court will then sign it. Once the order is signed, OAC will email the filed copy to you.
- 5) OAC, upon receipt of all the required paperwork, will open a Retained Indigent file in OAC's case management system and will then be prepared to review and process your funding requests following the normal ancillary service request procedures used by OAC in all indigent cases. If any of the required documents are missing from the package you submit to OAC, OAC will not open a retained indigent file in its system. That means OAC would not agree to process, approve, or pay for any ancillary service funding requests you might submit until and unless you provide the missing document(s).
- 6) You will be required to use OAC's Ancillary Service Request forms available online at <http://www.sdcounty.ca.gov/oac> in order to draft your requests for funding approval for specific ancillary services pursuant to the court order.
- 7) Much additional helpful information can be found on OAC's website, including links to legal research resources, various useful case forms, and information on training.