

Oregon Criminal Appellate Panel

The Office of Public Defense Services (OPDS) is accepting applications for the Oregon Criminal Appellate Panel. The Criminal Appellate Panel consists of select experienced appellate practitioners who are interested and qualified to represent clients on direct appeal in Oregon state appellate courts in non-capital criminal and contempt cases as well as on judicial review of final decisions of the Board of Parole and Post-Prison Supervision. OPDS compensates panel members on a case-by-case basis for providing representation for financially eligible individuals in cases in which the Appellate Division of OPDS cannot provide representation due to conflict or capacity. Panel members are not state employees and panel membership alone does not create a contractual relationship with OPDS.

The following general principles govern the Oregon Criminal Appellate Panel.

I. Eligibility

A member of the Oregon Criminal Appellate Panel must:

- a) Be an active member in good standing with the Oregon State Bar;
- b) Satisfy the appropriate Qualification Standards for Court-Appointed Counsel in appellate cases (see, Standard IV) (are available at <http://www.oregon.gov/OPDS/CBS/pages/qualificationstandards.aspx>);
- c) Exhibit a high level of professionalism, including the observance of court deadlines;
- d) Work collaboratively as appropriate with the Appellate Division of the Office of Public Defense Services and Department of Justice; and
- e) Possess excellent research, analytical, and writing skills.

II. Selection Process and Panel Oversight

A. Selection

OPDS selects qualified candidates for the panel on an ongoing basis and will conduct a reapplication process for continuing membership on the panel every two years.

To select panel members, OPDS will review applications, contact references, and may contact various components of the criminal justice system, including the Oregon State Bar, individual bar members, and the Oregon appellate courts.

B. Panel Oversight

Should OPDS develop a concern at any time about the quality of representation provided by a panel member, it will conduct an inquiry and provide the panel member with an opportunity to address its concern before OPDS takes appropriate action.

III. Compensation

Attorneys on the Oregon Criminal Appellate Panel are not state employees and are compensated pursuant to a schedule (see next page) that is based on (1) case type and transcript length and (2) whether the attorney files a merit brief as opposed to a *Balfour* brief or motion to dismiss.

The three case types are:

- a) appeals in misdemeanor cases, misdemeanor probation violation proceedings, and contempt proceedings;
- b) appeals in lesser felony cases and felony probation violation proceedings, and judicial review of parole cases;
- c) appeals in major felony cases (other than capital cases).

Lesser felony cases include a felony drug cases and all Class C felonies other than sexual offenses. Major felony cases include all Class A and B felonies other than drug cases, all felony sex offenses, and all homicides other than capital cases (cases resulting in a sentence of death).

The compensation schedule assumes appellate representation (including oral argument in the Court of Appeals) through the petition for review and closing the file if the Supreme Court denies review and enters an appellate judgment.

NOTE: The case valuation tables are based on averages. A panel member may petition OPDS for additional payment in an exceptional case, such as a case that presents a novel issue or multiple exceedingly complex issues.

A. Criminal Appeal Fee Structure

OREGON CRIMINAL APPELLATE PANEL

Rates Effective January 1, 2017

<i>Merit Brief Filed</i>			
Transcript pages	Misdemeanor Cases, Misdemeanor Probation Violation Proceedings, Contempt	Lesser Felony Cases, Felony Probation Violation Proceedings, Parole	Major Felony Cases
0-120	\$1,000	\$1,100	\$1,210
121-400	\$1,365	\$1,525	\$1,680
401-800	\$2,625	\$2,890	\$3,205
801-1200	\$4,100	\$4,515	\$5,040
1201-2200	\$5,775	\$6,510	\$7,245
2201-3200	\$7,875	\$8,875	\$9,820

<i>Balfour Brief or Motion to Dismiss Filed</i>			
Transcript pages	Misdemeanor Cases, Misdemeanor Probation Violation Proceedings, Contempt	Lesser Felony Cases, Felony Probation Violation Proceedings, Parole	Major Felony Cases
0-120	\$370	\$420	\$475
121-400	\$790	\$895	\$945
401-800	\$1,365	\$1,525	\$1,680
801-1200	\$2,100	\$2,365	\$2,625
1201-2200	\$3,150	\$3,570	\$3,885
2201-3200	\$4,570	\$5,145	\$5,670

B. Withdrawal, Dismissal, Mootness, and Similar Results

Payment will be assessed on a case-by-case basis depending on the circumstances, including, *inter alia*, the stage of appeal, the attorney hours invested, and the circumstances underlying the case resolution.

C. Supreme Court Review

Should the Supreme Court allow review, the panel attorney shall promptly notify OPDS. The presumption is that the panel attorney will prepare and file the brief on the merits and argue the case, although OPDS retains the option to recall the case.

If the Supreme Court allows review and the panel attorneys prepares the brief on the merits and argues the case, the panel attorney shall bill OPDS separately and will be paid at an hourly rate of \$55 per hour, with a presumptive 100-hour limit.

NOTE: As with Court of Appeals cases, a panel member may petition OPDS for additional payment in the exceptional Supreme Court case.

IV. Case Oversight

The panel attorney must provide OPDS an electronic version of the filed brief or, where appropriate, the motion to dismiss and order of dismissal.

Upon the client's request, the panel attorney agrees to inform the client (1) why significant direct appeal issues on the record were not raised in the brief and (2) why issues of express concern to the client were not included in the brief.

V. Payment

Payment will be made according to the Public Defense Payment Policies and Procedures.

VI. Application Process

To apply, please submit the following documents electronically in pdf to the email address below:

- (1) Cover letter,
- (2) Completed Application for Oregon Criminal Appellate Panel (see below),
- (3) Writing sample not exceeding 20 pages, and
- (4) Completed OPDS Public Defense Certificate of Attorney Qualification and Supplemental Questionnaire (see <http://www.oregon.gov/OPDS/pages/cbsforms.aspx>).

Ernest G. Lannet, Chief Defender, Criminal Appellate Section, at ernest.g.lannet@opds.state.or.us

APPLICATION FOR OREGON CRIMINAL APPELLATE PANEL

A. Name: _____

Address: _____

Phone: _____ Email: _____

B. Please indicate the approximate number of appellate briefs you have written and filed: _____.

List the name, case number, date brief filed, result, and citation for the four most recent appeals you have handled:

1. _____

2. _____

3. _____

4. _____

Please list the three most significant appellate cases you have handled:

1. _____

2. _____

3. _____

C. List areas of special legal expertise or interest:

D. Have you applied to this panel before? _____ If yes, date: _____

I HEREBY CERTIFY that all of the above information is true. I understand that by submitting this application I agree to abide by the appropriate Public Defense Payment Policies and Procedures that are consistent with the administrative case valuation model. If selected for the Oregon Criminal Appellate Panel and assigned cases, I will serve a copy of the brief and other significant filings on OPDS.

SIGNED: _____ DATE: _____