

F I L E D  
A.M. 4:00 P.M.  
APR 02 1997  
NED J. KERR, CLERK  
J. BUCKLEY  
DEPUTY CLERK

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTIES OF  
ADAMS, CANYON, GEM, OWYHEE, PAYETTE AND WASHINGTON

In the Matter of the Compensation            )  
Rate for Court Appointed Counsel            )

Administrative  
Order  
97-3

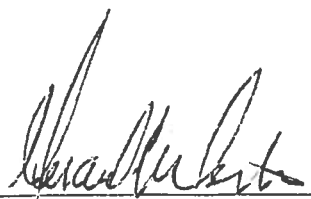
WHEREAS, the rate of compensation for court appointed counsel was established in the late 1970s at \$40.00 per hour, and

WHEREAS, the increase of the cost of living since that amount was established renders the amount of \$40.00 per hour an inadequate sum for compensation and could raise concerns about the adequacy of counsel being furnished to indigent defendants;

NOW, THEREFORE, IT IS HEREBY ORDERED, effective immediately, that in the absence of a specific order of the court fixing a different rate of compensation, the rate of compensation for court appointed attorneys for indigent defendants shall be the sum of Fifty (\$50.00) Dollars per hour.

IT IS FURTHER ORDERED, that any restitution ordered to be repaid by the defendant for court appointed counsel will be based on a rate of Fifty (\$50.00) Dollars per hour absent a specific order of court to the contrary.

Dated this 1 day of April, 1997.

  
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GERALD L. WESTON  
Administrative District Judge  
Third Judicial District

# Memo

**To:** Clerks, Judges, County Commissioners  
**From:** Gerald L. Weston, Administrative Judge  
**Subject:** Attorney Fees for Court Appointed Counsel  
**Date:** April 1, 1997  
**CC:** Dan Kessler

I have been receiving requests from attorneys who are regularly appointed as court-appointed counsel to increase the rate of compensation from the present level of \$40.00 per hour. I think that everyone would agree that the rate of pay that was set in the late 1970s by Judge Lodge is inadequate at today's cost of living.

Because the request comes after the budget's have been set I have delayed doing anything because I know that it may create some problems, particularly in Washington County that does not have a regular public defender. However, I think that the time has come to make a change. I am enclosing a copy of an administrative order setting the rate of compensation for indigent counsel at \$50.00 per hour, in the absence of some other specific order by the judge making the appointment. As I indicated in the order, I think that unless the rate of compensation is raised, the defendant's would have a persuasive argument that the rate of pay is substandard to the point that it impinges on their right to adequate counsel.

In order to try to minimize the fiscal impact of an increase in the middle of the budget year, I am asking the judges to require restitution for court appointed cases in every case that does not indicate a serious financial hardship. A lot of people cannot afford a private attorney because of the requirement for a large retainer--most people can afford an attorney if given a reasonable time to pay. I am also asking the judges to inquire specifically into how soon the litigant could pay his fines and restitution. Some of them can pay at a greater rate than the minimum suggested figures, and that will help get us through this budget year.

