

STATE OF NEW MEXICO  
COUNTY OF LINCOLN  
TWELFTH JUDICIAL DISTRICT

FILED  
DISTRICT COURT OF  
LINCOLN COUNTY, N.M.  
15 JUN 29 PM 4:37

**STATE OF NEW MEXICO,**

Plaintiff,

v.

**SANTIAGO VICTOR CARRILLO,**

CR-13-260/CR-12-139

Defendant,

And

**NEW MEXICO LAW OFFICE OF THE PUBLIC DEFENDER,**

Real party in interest.

**ORDER DECLARING LIMITS FOR PAYMENT TO CONTRACTORS IN  
ORDER FOR CONTRACTORS TO PROVIDE EFFECTIVE ASSISTANCE  
OF COUNSEL**

**THIS MATTER**, coming before the Court after several hearings, presentation of evidence including testimony and exhibits, financial review of budgets and extensive argument, the State represented by its Deputy District Attorney Matthew Wade, the Defendant Santiago Victor Carrillo represented by Gary C. Mitchell, and the New Mexico Law Offices of the Public Defender (LOPD) formerly represented by the Attorney General of the State of New Mexico but now by Karl Erich Martell,

**IT IS THEREFORE THE ORDER** of the Court as follows:

The flat fee rates heretofore paid and to be paid to contractors/conflict attorneys by and through the Law Offices of the Public Defender for fiscal years 2016 and preceding fiscal years is not sufficient to comply with *Gideon v Wainwright's* 372 U.S. 335 (1963), it is therefore ordered the State properly fund effective assistance of counsel for indigent defendants and is therefore unconstitutional both under the United States Constitution and the New Mexico Constitution;

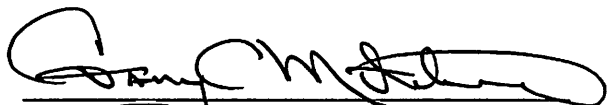
The Public Defender Department shall pay to each and every contractor no less than \$85.00 per hour plus GRT (gross receipts tax) for the attorney and \$35.00 an hour plus GRT for staff, with appropriate markers set forth in Exhibit "A" attached, together with costs of copies and postage to be sent to indigent clients and/or other attorneys and experts, the costs of transportation and overnight stay paid based on the New Mexico State Per Diem rates and rules, and the costs of collect calls from the client to the attorney; so the attorney may have at least the bare minimum of monies to provide the effective representation necessary.

Should the Law Offices of the Public Defender be unable to comply the court in a particular case retains jurisdiction to fashion other remedies.

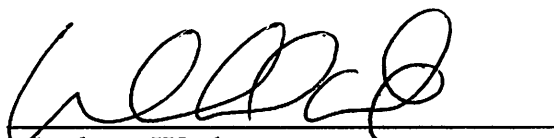
Ordered this \_\_\_ day of \_\_\_\_\_, 2015.

  
DISTRICT JUDGE

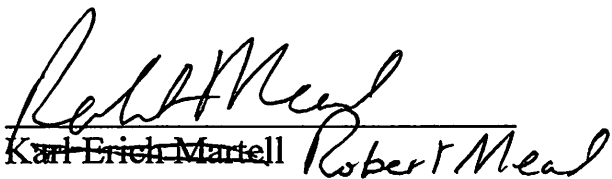
APPROVED BY:



Gary C. Mitchell, P.C.  
Attorney for Defendants  
P.O. Box 2460  
Ruidoso, NM 88355  
575-257-3070/575-257-3171 (Fax)



Matthew Wade  
Deputy District Attorney  
P.O. Box 893  
Carrizozo, NM 88301  
575-648-2383/575-648-2611 (Fax)



~~Karl Erich Martell~~ Robert Mead  
Special Assistant Attorney General  
LOPD General Counsel  
505 Marquette Ave NW, Ste. 120  
Albuquerque, NM 87102  
505-835-2215/505-841-5177 (Fax)

**“Marker” for Hourly Rate Cases  
New Mexico Public Defender Commission  
June 14, 2014**

A “marker” is the amount of fees that would normally be adequate to allow the contract/conflict attorney to complete the performance standards of representation at the given hourly rate of eighty-five dollars (\$85.00) through a certain stage of a case. The marker is not a cap on fees, but an amount that may not be exceeded without an explanation of the need for additional hours and permission.

The markers below are for 1) resolution without a trial, and 2) resolution of the case with a trial.

Degree of Highest Charge in Charging Document	Marker for Resolution Without Trial	Marker for Resolution With Trial
Petty Misdemeanor	\$1,200.00	\$2,000.00
Misdemeanor	1,500.00	2,500.00
DWI (1 <sup>st</sup> Offense)	2,000.00	3,000.00
DWI (2 <sup>nd</sup> or 3 <sup>rd</sup> Offense)	3,000.00	4,000.00
Fourth/Third Degree Felony (with mandatory sentence add \$1,000.00 to each marker)	4,000.00	6,000.00
Second Degree Felony (with mandatory sentence add \$2,000.00 to each marker)	5,000.00	8,000.00
First Degree Felony (with mandatory sentence add \$3,000.00 to each marker)	10,000.00	15,000.00
Capital Crime (life imprisonment)	18,000.00	30,000.00
<u>Juvenile Charges</u>		
Misdemeanor	1,000.00	2,000.00
Second, Third, Fourth Degree SYO/ First Degree	3,000.00	5,000.00
	10,000.00	20,000.00
Probation Violation		1,000.00