

JULY 2017 – ADI NEWS ALERT

BY

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JCC issues new travel expense reimbursement rates for appointments on or after January 1, 2017.

The JCC (Judicial Council of California) has updated its rules for reimbursing panel attorneys for travel on their appointed appeals. The *appointment* date (not the date of travel) is the operative factor. In other words, the new rates apply to cases appointed on or after January 1, 2017; the rates for cases appointed before then remain unchanged.

	<u>Appointment before 1/1/17</u>	<u>Appointment on or after 1/1/17</u>
Personal car use		
Mileage rate	48.5 cents/mile	50 cents/mile
Meals (overnight only), actual up to:		
Breakfast	\$ 6.00	\$ 8.00
Lunch	\$10.00	\$12.00
Dinner	\$18.00	\$20.00
Hotels, actual plus tax, up to:		
San Diego County	\$110.00 per night	\$120.00 per night
Orange County	\$110.00 per night	\$120.00 per night
Riverside County	\$110.00 per night	\$110.00 per night

¹As always, panel attorneys are responsible for familiarizing themselves with all ADI news alerts and other resources on the ADI website.

Sperling court deletes footnote, adds concurrence

In the [June 2017 alert](#),² we discussed [People v. Sperling](#)³ (2017) 12 Cal.App.5th 676 [B272275], a June 8 opinion that denounced a retained appeal as frivolous and warned of possible sanctions in a future case “where a criminal appeal is maintained despite an insurmountable procedural bar or contrary to long-standing precedent precluding an appellate court from ‘second guessing’ the lawful exercise of sentencing discretion.” We expressed doubt about the theory that sanctions could be imposed for “filing a criminal appeal,” considering Penal Code section 1240.1, subdivision (b). We noted California Supreme Court dicta about “maintaining” a criminal appeal with only frivolous issues, decisions actually imposing sanctions for frivolous criminal *writs*, and judicial rumblings about sanctioning individual frivolous *issues*. We emphasized that, both for effective advocacy and for self-protection, counsel are well-advised to learn to distinguish between arguable and non-arguable issues.

On June 28, the court [modified the opinion](#)⁴ to delete the quoted passage. The author, Acting Presiding Justice Yegan, filed a concurring opinion, saying he was not finding the appeal frivolous. He reaffirmed the options for retained counsel unable to find issues, as outlined in *People v. Placencia* (1992) 9 Cal.App.4th 422, 427.⁵

As so narrowed, the *Sperling* decision should not cause any change in appointed counsel’s practices. And it serves as a reminder to review standards of arguability.

Supreme Court releases rules governing TrueFiling in that court

With the launch of TrueFiling in the Supreme Court on July 10, court issued a [news release](#) on the publication of [rules governing TrueFiling](#). At the time of this alert TrueFiling is voluntary; it will become mandatory on September 1. We urge counsel to use it right away to get familiar with the procedure. As in the Court of Appeal, TrueFiling fees are reimbursable.

²http://www.adi-sandiego.com/pdf_forms/2017_6_June_News_Alert.pdf

³<http://www.courts.ca.gov/opinions/documents/B272275.PDF>

⁴<http://www.courts.ca.gov/opinions/documents/B272275M.PDF>

⁵*Placencia* held *Wende-Sade C.* procedures are not available in retained cases. It identified other procedures retained counsel can use.