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To: Florida Attorneys, Due Process Providers
From: Stephen Presnell, General Counsel
Date: June 9, 2011
RE: **REMINDER--Contractual penalties for cases that reach final disposition on or after July 1, 2010**

In the 2010 Regular Legislative Session, the legislature directed that JAC provide two new additional penalties for untimely billing of attorney's fees, due process costs, or related expenses. These penalties will impact any private court appointed or indigent for costs case that reaches final disposition on or after July 1, 2010. In addition to the 15 percent penalty previously enacted, the new penalties as set forth in s. 27.5304, F.S., are as follows:

- For billings that are submitted more than one year following final disposition at the lower court level, JAC shall reduce the amount of attorney's fees, due process costs, or related expenses payable by 50 percent as a contractual penalty for untimely billing.
- For billings that are submitted more than two years following final disposition at the lower court level, JAC shall reduce the amount of attorney's fees, due process costs, or related expenses payable by 75 percent as a contractual penalty for untimely billing.

These new penalties only apply to cases that reach final disposition on or after July 1, 2010.

For cases that reach final disposition prior to July 1, 2010, only the 15 percent penalty previously enacted will apply. For purposes of determining whether a case has reached final disposition, s. 27.5304, F.S., contains the following definition of disposition:

1. At the trial court level, that the court has entered a final appealable judgment, unless rendition of judgment is stayed by the filing of a timely motion for rehearing. The filing of a notice of appeal does not stay the time for submission of an intended billing; and
2. At the appellate court level, that the court has issued its mandate.

Under the terms of s. 27.5304, F.S., and the JAC Agreement, billings for cases that reach final disposition on or after July 1, 2010, will be subject to a 15 percent penalty when the billing is submitted more than 90 days after final disposition; a 50 percent penalty when the billing is submitted more than 1 year after final disposition; and a 75 percent penalty when the billing is submitted more than 2 years after final disposition. The billing will also be subject to the statute of limitations calculated from the date the case reaches final disposition.

If you have any questions or concerns, feel free to contact the JAC Help Desk at (866) 355-7902.