

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI**

IN RE:)
)
) **ATTORNEY ADMISSION FEE**
) **NON-APPROPRIATED FUND**
BUSINESS OF THE COURT)

ADMINISTRATIVE ORDER

WHEREAS, Local Rule 12.03 authorizes the District Court to establish and administer an Attorney Admission Fee Non-Appropriated Fund into which certain monies received by the Court from attorney admission fees, *pro hac vice* fees, and renewal registration fees are deposited, and

WHEREAS, the District Court is required to have a written plan for the administration and operation of the fund, and a means for setting policy which shall govern the use of the fund,

NOW THEREFORE, IT IS HEREBY ORDERED as follows:

I. Attorney Admission Fees, *Pro Hac Vice* Fees and Renewal Fees

Every attorney admitted to practice with this court shall pay to the Clerk of the Court an initial registration fee. That portion of the fee which exceeds the amount set by the United States Judicial Conference shall be retained by the District Court in a non-appropriated fund in accordance with other provisions of this Order to be used for the benefit of the bench and bar in the administration of justice. Fees for admission to practice before this Court *pro hac vice* and fees for the renewal or registration to practice before this Court shall also be deposited in the non-appropriated fund.

II. Administration of the Fund

A. Non-Appropriated Fund Committee

The fund shall be administered by a non-appropriated fund committee. The committee shall consist of a district judge as chairperson, three other judges as approved by the Court, and one

bankruptcy judge as approved by the Court. The committee shall be responsible for overseeing the Clerk in his custodial responsibilities, reviewing and approving accountings rendered by the Clerk, and making recommendations on proposed expenditures from the fund.

The chairperson (or, in the chairperson's absence, the most senior district judge on the committee) shall have the authority to approve general disbursements not exceeding \$1,000.00. General disbursements not exceeding \$1,000.00 may be ordered by the chief judge without the approval of the chairperson. The committee, or majority thereof, shall have the authority to approve general disbursements of more than \$1,000.00 but not exceeding \$5,000.00. All general expenditures in excess of \$5,000.00 shall obtain the authorization of four additional district judges after committee approval at the lower level. Any judge, staff member, or member of the bar of this Court may make recommendations for general expenditures. A general expenditure or disbursement is any use of the fund that is not related to a case.

B. Authority of Judges to Order Disbursements to Attorneys in Particular Cases

A district judge or magistrate judge may order disbursement of funds not exceeding \$10,000.00 for reimbursement of out-of-pocket expenses and \$5,000.00 for compensation of appointed attorneys consistent with section 28 U.S.C. § 1915, Local Rule 12.03, Local Rule 6.02, and this Order. A bankruptcy judge may order disbursement of funds not exceeding \$1,000.00 for (1) reimbursement of out-of-pocket expenses for volunteer *pro bono* attorneys in bankruptcy adversary proceedings incurred representing indigent clients that qualify to have fees waived in cases under Chapter 7 of Title 11 of the United States Code pursuant to 28 U.S.C. § 1930(f), or (2) for attorneys that, at the request of the United States Trustee, have replaced attorneys who were representing parties in a bankruptcy case but can no longer do so because of death or other incapacity (including disbarment and the inability of the client and the United States Trustee to

locate the attorney).

Any request for reimbursement of out-of-pocket expenses in excess of \$10,000.00 (\$1,000.00 in bankruptcy cases) shall be referred to the chairperson of the committee in accordance with Section IV of this Order. A district judge or magistrate judge may order disbursement of funds not exceeding \$1,000.00 for the pro rata share of a *pro bono* neutral's fee that has been waived or reduced consistent with Local Rule 6.03(C)(2) and this Order.

C. Fund Custodian

The Clerk of the United States District Court for the Eastern District of Missouri shall serve as the custodian of the non-appropriated fund and shall receive, safeguard, deposit, disburse, and account for monies in the fund. The custodian may delegate authority for the day-to-day operations of the fund to a person known as the "designee."

D. Deposits, Annual Report, and Audit

Monies paid into the fund shall be kept separate from other monies received by the Court. The fund shall be deposited only in federally insured banks or savings and loan institutions, or invested in government securities or money-market accounts invested in government obligations. The custodian shall prepare an annual report to the Court on the operation of the fund. The fund shall be audited by the Administrative Office of the United States Courts as part of its periodic review of the business of the Court. The Court's non-appropriated fund committee may direct that an audit be performed by an outside auditor at any time. The cost of any such audits shall be paid out of the fund.

E. Surety Bond

The custodian and designee may be required to furnish a surety bond, the premium of which shall be paid from the fund.

III. Authorized Expenses - Generally

Monies deposited in the non-appropriated fund may be used for the benefit of the bench and bar in the administration of justice, including but not limited to the following:

A. Reasonable attorney's fees and out-of-pocket expenses of attorneys appointed pursuant to 28 U.S.C. § 1915 to represent indigent parties in civil proceedings consistent with Local Rules 12.03, 12.06(D), and as further described in Sections IV and VI of this Order;

B. Reasonable attorney's fees and out-of-pocket expenses of attorneys appointed pursuant to Local Rule 6.02 for the limited purpose of providing legal advice and representation in preparation for and during the course of mediation or early neutral evaluation ordered by this Court, and as further described in Sections IV and VI of this Order;

C. Reasonable out-of-pocket expenses for volunteer *pro bono* attorneys in bankruptcy adversary proceedings incurred representing indigent clients that qualify to have fees waived in cases under Chapter 7 of Title 11 of the United States Code pursuant to 28 U.S.C. § 1930(f), and as further described in Sections IV and VI of this Order;

D. Reasonable out-of-pocket expenses for attorneys that, at the request of the United States Trustee, have replaced attorneys who were representing parties in bankruptcy cases but can no longer do so because of death or other incapacity (including disbarment and the inability of the client and the United States Trustee to locate the attorney), and as further described in Sections IV and VI of this Order;

E. *Pro bono* neutral's fees in an amount equal to the pro rata share of a fee that has been waived or reduced, not to exceed one thousand dollars (\$1,000.00), consistent with Local Rule 6.03(C)(2) and as further described in Sections V and VI of this Order;

F. Reasonable fees for a CJA Panel Mentee as a second chair, as authorized by this

Court's Criminal Justice Act Plan, provided that in any proceeding in which fees and expenses are covered by the Criminal Justice Act, 18 U.S.C. § 3006A, such fees and expenses shall be paid from such funds in accordance with CJA guidelines and not from this fund;

G. Expenses related to attorney disciplinary proceedings including expenses of investigating counsel for disciplinary enforcement, travel expenses, and witness fees in disciplinary proceedings;

H. Expenses related to participation in attorney admission proceedings;

I. Expenses necessary to support the approved activities of the District Court's Federal Practice Committee;

J. Expenses of programs, exhibits, and materials that promote legal, judicial, and court administration education or that encourage public awareness about the role of the federal courts in the administration of justice, including the collection, restoration, preservation, and/or display of court records or other artifacts of historical significance as well as judicial portraits, historical photographs, art works, oral histories, etc.;

K. Expenses for mandatory fees and dues, in an annual amount not to exceed the cost of membership in The Missouri Bar, necessary for judges, and those lawyers employed by the Court for three years or more as of January 1 each year, to retain their licenses to be lawyers and/or judges;

L. Expenses for fees and dues for an annual membership in a voluntary bar association for judges, court unit executives, and those lawyers employed by the Court for three years or more as of January 1 each year (one per year);

M. Expenses for the purchase of judges' robes to be worn in court and at other official proceedings;

N. Expenses for reimbursement to judges in connection with in-state conventions, meetings and/or conferences sponsored by legal or professional associations, including mileage, meals, lodging, registration fees, receptions, and/or dinners (two per year);

O. Expenses for reimbursement to law clerks in connection with in-state conventions, meetings, and/or conferences sponsored by legal or professional associations, including mileage, meals, lodging, registration fees, receptions, and/or dinners (one per year);

P. Expenses related to the Court's treatment programs (Project EARN, GRIP Court, Janis Good Mental Health Court, Veterans Court, SAIL Pretrial Diversion Program, or other treatment courts that the Court may hereafter create), including but not limited to rewards for milestone achievements, and participation incentives in the treatment programs;

Q. Reasonable expenses related to the recognition of judicial officers by the legal community, including attendance costs for judicial officers to attend awards ceremonies and the purchase of plaques or other commemorative items of appreciation;

R. Reasonable expenses related to the recognition and appreciation of Court staff for their efforts in assisting both the Bench and Bar in achieving the Court's mission;

S. Expenses related to meetings with local, state, and federal officials and judicial representatives regarding issues related to the Bench and Bar of Eastern Missouri;

T. Surety bonds for the custodian and designee of this fund;

U. Fees for audits of this fund, if any;

V. All other expenses expressly authorized by the committee, or majority thereof, charged with the administration of the fund; and

W. Expenses for reimbursement to judges, designated by the Chief Judge to represent the court, for mileage, meals, and lodging in connection with funerals, memorial services, investiture

ceremonies, and/or receptions associated with members of the bench and /or bar.

IV. Eligibility for Disbursement: Compensation for Attorney's Fees and Reimbursement of Expenses

A. Authorization for Compensation and Expenses of Attorneys – Generally

When an attorney has been appointed to represent an indigent party in any proceeding qualifying for reimbursement as described in Section III above, that attorney may apply to the Court for compensation of fees and reimbursement of expenses incurred in the preparation and presentation of the proceeding, subject to the restrictions of this Order. Application should be made to the District Court for District Court cases and to the Bankruptcy Court for Bankruptcy Court cases. Payment of attorney's fees from the non-appropriated fund is not available to attorneys in bankruptcy cases or adversary proceedings except as provided in this Order.

B. Limitations on Compensation for Attorney's Fees

The judge to whom the proceeding is assigned is authorized to approve compensation of fees. The maximum compensation for attorney's fees for any one appointment in a civil proceeding in the District Court is five thousand dollars (\$5,000.00). This limit may not be exceeded under any circumstances. However, if multiple or successive attorneys were appointed by the Court to represent an indigent party in a civil proceeding (e.g., if appointed counsel is allowed to withdraw, and substitute counsel is appointed; or if a limited scope counsel is appointed under Local Rule 6.02 and the Court appoints an attorney for the party thereafter), each appointed attorney may be compensated for fees up to \$5,000.00.

C. Limitations on Assigned Judge's Authority to Order Reimbursement of Out-of-Pocket Expenses

The judge to whom the proceeding is assigned is authorized to approve reimbursement of out-of-pocket expenses up to ten thousand dollars (\$10,000.00) in a case in the District Court; one

thousand dollars (\$1,000.00) in a case or adversary proceeding in the Bankruptcy Court. If an attorney requests reimbursement of expenses in excess of these amounts, the assigned judge may order compensation of any claimed attorney's fees if so authorized under this Order, but shall forward the request for reimbursement of expenses to the chairperson of the non-appropriated fund committee together with a recommendation thereon. The chairperson shall present the assigned judge's recommendation concerning reimbursement of expenses to the non-appropriated fund committee for consideration. The committee, or majority thereof, shall have the authority to approve the recommendation in whole or in part.

If an attorney requests reimbursement of expenses in excess of fifteen thousand dollars (\$15,000.00), the chairperson of the non-appropriated fund committee shall present the assigned judge's recommendation to the non-appropriated fund committee for consideration. After obtaining the approval required for a disbursement over the \$10,000.00 limit, four district judges must approve any disbursement for reimbursement of expenses in excess of \$15,000.00.

D. Limited to Civil Matters before the District Court and Cases and Adversary Proceedings in the Bankruptcy Court

Only those attorney's fees and expenses associated with the preparation and/or trial of a civil suit, action, or proceeding in the United States District Court for the Eastern District of Missouri or expenses associated with a case or adversary proceeding in the United States Bankruptcy Court for the Eastern District of Missouri shall be approved for disbursement. No attorney's fees, costs, or expenses associated with the preparation or presentation of an appeal to any United States Court of Appeals, the Bankruptcy Appellate Panel, the District Court, or the United States Supreme Court shall be eligible for disbursements from the non-appropriated fund.

E. Out-of-Pocket Expenses Eligible for Reimbursement

Any Request seeking reimbursement of out-of-pocket expenses shall be accompanied by sufficient documentation to permit the Court to determine that the amounts claimed for expenses were actually paid out. If multiple or successive attorneys were appointed to represent an indigent party in a civil proceeding, or successive attorneys represented an indigent party in a bankruptcy adversary proceeding or replaced an incapacitated attorney in a bankruptcy case pursuant to this Order, each such attorney may request reimbursement of out-of-pocket expenses.

1) Deposition and Transcript Costs

The costs of transcripts or depositions shall not exceed the regular original page and copy rate established by the Judicial Conference of the United States in effect at the time any transcript was filed or deposition was taken, unless some other rate was previously approved by order of court. Except as otherwise ordered by the Court, only the cost of the original of any transcript or deposition together with the cost of one copy each where needed by counsel will be authorized.

2) Travel Expenses

Travel by privately-owned automobile may be claimed at the rate currently prescribed for federal judiciary employees who use a private automobile for conduct of official business, plus parking fees, tolls, and similar expenses. Travel other than by privately-owned automobile may be claimed on an actual expense basis and must be approved prior to the travel by the judge to whom the case is assigned.

Per diem in lieu of subsistence is not allowed; only actual expenses may be reimbursed. Actual expenses reasonably incurred shall be guided by the prevailing limitations placed upon travel and subsistence expenses of federal judiciary employees in accordance with

existing government travel regulations.

3) Service of Papers; Witness Fees

Those fees for service of papers and the appearance of witnesses that are not otherwise avoided, waived, or recoverable may be reimbursed from the non-appropriated fund.

4) Interpreter Services

Costs of interpreter services not otherwise avoided, waived or recoverable may be reimbursed from the non-appropriated fund.

5) Cost of Photocopies, Photographs, Facsimile Transmission, Postage, Telecommunications or Data Charges

Out-of-pocket expenses incurred for items such as photocopying services, photographs, facsimile transmissions, postage, or any telecommunications or data charges necessary for the preparation of a case may be reimbursed from the non-appropriated fund.

6) Computer-Assisted Legal Research

Expenses related to computer-assisted legal research must be accompanied by receipts that show the method of billing and the total time spent using the computerized system. In addition, a statement of the issues researched must also be included.

7) Other Expenses

Out-of-pocket expenses other than those described in this section may be approved by the assigned judge for reimbursement. When requesting reimbursement of any other expense under this section, a detailed description of the expense and why it was required should be attached to the Request for reimbursement filed with the assigned judge.

8) Overhead Costs and Costs of Printing Briefs Not Covered

General office expenses, including personnel costs, rent, telephone services,

secretarial help, and other overhead-type expenses are not reimbursable from the non-appropriated fund. The expense of printing briefs, regardless of the printing method utilized, is not reimbursable from the non-appropriated fund.

F. Not Available to Pay Costs Awarded Against Party

Under no circumstances shall any disbursements be authorized from the non-appropriated fund to compensate for attorney's fees or reimburse costs taxed as part of a judgment obtained by an adverse party against a party for whom counsel was appointed pursuant to the rules of this Court, or that counsel represented either *pro bono* or as a replacement for an incapacitated attorney in a bankruptcy case or adversary proceeding.

V. Eligibility for Disbursement: Pro Bono Neutral Fees

When a neutral has been appointed to serve *pro bono* pursuant to Local Rule 6.03(C)(2), that neutral may request from the court reimbursement of fees incurred during the referral of the case to Alternative Dispute Resolution, subject to the restrictions of this Order. The judge to whom the case is assigned is authorized to approve reimbursement not to exceed one thousand dollars (\$1,000.00). Any request for reimbursement in excess of one thousand dollars (\$1,000.00) will not be considered by the Court. Only a neutral fee that has been waived or reduced by the Court may be reimbursed. If other parties to the case are able to pay the fee, they shall bear their *pro rata* portion of the fee, and the neutral shall not include that portion of the fee in the request for reimbursement. Similarly, if a neutral fee has been reduced, the neutral shall not seek reimbursement for that portion of the fee that is to be paid. Only the neutral's fee for conducting the mediation or evaluation is reimbursable. The neutral shall not claim reimbursement for any expenses incurred during the appointment.

VI. Attorney Procedures for Obtaining Disbursements From the Fund

A. Request for Compensation of Fees and Reimbursement of Expenses

1) Any application for the compensation of attorney's fees and/or reimbursement of expenses shall be submitted on the Request for Compensation of Services and Reimbursement of Out-of-Pocket Expenses form for District Court cases pursuant to 28 U.S.C. §1915 and Local Rules 6.02, 12.03, and 12.06(D); the "*Pro Bono* Neutral's Request for Reimbursement of Services" for *pro bono* neutral reimbursement cases pursuant to Local Rule 6.03; or the "Request for Reimbursement of Out-of-Pocket Expenses in Bankruptcy Matters" ("Request for Reimbursement") for all Bankruptcy Court appointments; as approved by the non-appropriated fund committee.

2) The Request for Reimbursement forms are available on the District Court's Internet website, www.moed.uscourts.gov (under the "Attorney" tab, select "Appointed Counsel Fees and Expenses - Civil Case") or from the Clerk of either the District Court or the Bankruptcy Court. The *Pro Bono* Neutral's Request for Reimbursement of Services form is also available under the Alternative Dispute Resolution tab on the Court's website. Limited Scope Counsel appointed pursuant to Local Rule 6.02 must use the same Request for Compensation form as attorneys appointed in any other civil case, and Limited Scope Counsel will be directed to the correct form from both the Attorney tab and the Alternative Dispute Resolution tab on the Court's website. Also available on the website or from the Clerk of Court are the portions of this Order relating to reimbursement of attorney's fees and expenses, as well as the instructions for completing the Request and worksheet forms.

3) The Request shall be accompanied by sufficient documentation to permit the Court to determine that the time claimed for attorney's fees was expended and was appropriate

and reasonable, and that the amounts claimed for expenses were actually paid out. The assigned judge and/or the non-appropriated fund committee may refuse to permit compensation of any attorney's fee or reimbursement of any expense in the absence of appropriate documentation. The Request shall be filed in the civil or bankruptcy case or adversary proceeding in which the attorney was appointed, served *pro bono*, or replaced incapacitated counsel.

4) A request in a District Court case may be filed during the pendency of the civil proceeding or up to sixty (60) days following the entry of a final judgment. A request for *pro bono* neutral reimbursement must be made within thirty (30) days of the neutral's filing of a notification in writing that the referral has been concluded. A request for reimbursement of limited scope counsel pursuant to Local Rule 6.02 may be made upon the conclusion of the mediation, or at any time up to sixty (60) days following the termination of the limited scope representation. A Request in a Bankruptcy Court case or adversary proceeding may be filed up until the main bankruptcy case is closed. The judge to whom the case or proceeding is assigned may, for good cause shown, extend the time for filing a request.

5) All requests shall be accompanied by a completed and signed W-9 for the attorney or firm to be paid. If the W-9 form is not provided, any fees reimbursed shall be subject to an income tax withholding of 28% per IRS regulations. At the end of the calendar year, a 1099-MISC will be sent to all parties receiving reimbursement for compensation in excess of \$600 for the year. The W-9 form can be filed with the finance unit of the District Court and should not be included with any documents that are filed in the case.

B. Request from Attorney No Longer Representing Party

When an appointed attorney is permitted to withdraw from representing the party in a civil proceeding, or a *pro bono* attorney or attorney replacing incapacitated counsel is permitted to

withdraw from representing a party in a bankruptcy case or adversary proceeding, and the attorney has incurred attorney's fees and/or expenses which may be compensable under this Order, the attorney shall file a Request for Reimbursement within sixty (60) days of the date of the order allowing the withdrawal. Except for good cause shown, the assigned judge will not approve compensation of fees and/or reimbursement of expenses where the Request is filed more than sixty (60) days after the entry of the order allowing withdrawal.

C. Requests May be Made *Ex Parte*

Any Request made under this Order may be made *ex parte*. An *ex parte* submission of a Request in the District Court shall be made in conformity with the requirement for *ex parte* filing set forth in the Administrative Procedures for Case Management/Electronic Case Filing manual available on the Court's Internet website, www.moed.uscourts.gov (under the "CM/ECF" tab, select "Manuals" and then "Administrative Procedures").

D. Processing by the Clerk

On receipt of a Court order directing the compensation of attorney's fees and/or reimbursement of expenses, the Clerk of the District Court shall determine whether any disbursements have previously been made from the non-appropriated fund for fees and expenses in the same proceeding. If no such disbursements have been made, the Clerk shall promptly issue the required check or checks in the amount(s) indicated in the order. Where disbursements have previously been made from the non-appropriated fund for attorney's fees or expenses in the same proceeding, the Clerk shall determine whether the amounts authorized by the current order together with amounts previously disbursed (1) exceed the maximum attorney's fee limit of \$5,000.00 per appointment or (2) require approval by the non-appropriated fund committee pursuant to this Order. Where such approval is required, the Clerk shall promptly forward the

application to the assigned judge or to the chairperson of the non-appropriated fund committee for further action.

E. Amounts Disbursed from the Fund to be Reimbursed from Any Fee Award

Attorney's fees are compensable and/or expenses are reimbursable from the non-appropriated fund only when counsel has not otherwise been compensated or reimbursed for the representation of an appointed client, a *pro bono* client, or a client whose previous attorney is incapacitated. Where a fee or cost award is made to an appointed or *pro bono* attorney, or to an attorney replacing an incapacitated attorney, either by the Court or pursuant to a settlement agreement, the attorney awarded fees or costs shall, within twenty (20) days of receipt thereof, repay the non-appropriated fund any amounts disbursed to said attorney under this Order.

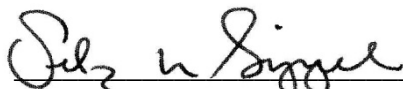
VI. Limitations

Monies deposited in the non-appropriated fund must not be used to pay for materials or supplies available from statutory appropriations. Under no circumstances are such monies to be used to supplement the salary of any Court officer or employee.

VII. Prior Orders or Regulations Superseded

This Order supersedes both any prior Order governing the Attorney Admission Fee Non-Appropriated Fund, and any prior Regulations of this Court governing reimbursement of attorneys for fees and expenses from this Fund.

Dated this 20th day of February, 2019.



RODNEY W. SIPPEL
CHIEF JUDGE