

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

In re: Plan for the Administration of the
Non-Appropriated Fund

Administrative Order

No. 17-AO-034

This administrative order supersedes Administrative Order 17-AO-021

ADMINISTRATIVE ORDER

I. Definition

The Non-Appropriated Fund (Fund) is derived from attorney admission fees and is to be used for the benefit of the bench and bar in the administration of justice. The Fund is not to be used to supplement appropriated funds or the salary of any court officer or employee.

II. Attorney Admission Fee

Effective January 1, 2018, the attorney admission fee is \$300, of which \$181 will be deposited in the Treasury of the United States as required by the Judicial Conference of the United States under 28 U.S.C. §§ 1914 and 1931. The remaining \$119 will be deposited in the Fund, the administration of which is governed by this administrative order. The Fund is not the property of the United States.

III. Purpose of the Fund

Subject to the availability of funds, the Fund will be used to pay for expenses of the Pro Bono Civil Assignment Panel, services provided by the Ralph M. Freeman Memorial Library for which appropriated funds are not available, the Court Historical Society, and other services for the benefit of the bench and bar in the administration of justice.

A. Pro Bono Civil Assignment Panel

(1) Administration

(a) The Court may make contributions from the Fund to the Volunteer Lawyer Program of the Detroit Metropolitan Bar Association for the administration of the Pro Bono Civil Assignment Panel at least annually in amounts to be approved at regular meetings of the Judges. These contributions will be on a voucher approved by the Chief Judge.

(b) The Fund may also be used to pay for services which promote

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the Pro Bono Civil Assignment Panel, including but not limited to donations to bar associations which may provide professional liability coverage for pro bono attorneys.

(2) Reimbursement of Pro Bono Attorney Expenses in Civil Cases

(a) The Fund may be used to reimburse attorneys who are acting in connection with the Pro Bono Civil Assignment Panel for certain expenses associated with the evaluation, preparation or presentation of civil actions in the Eastern District of Michigan.

(b) Applications for reimbursement of pro bono attorney expenses by the Fund are submitted to the Court Administrator for review and recommendation to the judicial officer to whom the case was assigned for approval. Forms requesting reimbursement are available at all Clerk's Office locations in the Eastern District of Michigan.

(c) The Fund may not be used to reimburse attorneys for expenses associated with the preparation or presentation of an appeal to the United States Court of Appeals or the United States Supreme Court, however the Fund may be used to reimburse attorneys for expenses associated with the preparation and argument of interlocutory appeals. A *pro bono* attorney's responsibility to a client continues through entry of judgment and the filing of notice of appeal if the client wishes to appeal.

(d) The maximum amount that may be disbursed from the Fund in any case is \$2,000, unless substantial documentation is provided indicating that additional reimbursement is warranted. Requests for reimbursement that exceed \$2,000 require the completion and submission of a "Preauthorization of Pro Bono Civil Expenses" form. This authorization requires the approval of both the assigned judge and Chief Judge. Failure to secure preauthorization will result in the denial of a request for reimbursement that exceeds \$2,000.

(e) The list of presumptive hourly rates (Sixth Circuit presumptive rates as adopted by the Eastern District of Michigan eVoucher Ad Hoc Committee) for expert services apply to civil pro bono cases unless special qualifications or circumstances necessitate an hourly rate in excess of those listed. In such instances, an *ex parte* memorandum detailing the reasons to justify the higher rate must accompany the "Preauthorization of Pro Bono Civil Expenses" form. Such memoranda does not guarantee the approval of the request. Attorneys must refer to the list of presumptive hourly rates located on the Court's website.

(f) Requests for reimbursement from the Fund may be made *ex parte*.

(g) Reimbursement from the Fund is limited to the following allowable expenses. Failure to provide receipts or other written documentation as proof may result in a request being returned for additional information or not being approved.

i) Depositions and Transcripts. Attorneys may order transcripts of depositions necessary in the preparation of the case. Cost of transcripts may not exceed the page rate for ordinary transcript established in the Eastern District of Michigan. Attorneys may be required to show that they first attempted to obtain *pro bono* court reporting services from a member of the Michigan Association of Professional Court Reporters.

ii) Investigative or Expert Services. Attorneys may request investigative or expert services necessary in the preparation of the case. Such services require prior approval of the judicial officer to whom the case is assigned.

iii) Travel. Reimbursement may be claimed for travel at the most recent prescribed rate set by the Director of the Administrative Office of the United States Courts. Distances shown by a standard highway mileage guide may be used as the basis for such claims, or actual mileage may be shown. The reimbursement request must show the points between which official travel was performed, the total mileage claimed if by private automobile, and the dates of travel. For further guidance, relevant portions of the *Guide to Judiciary Policy*, Vol. 19, Ch. 4 may be provided upon request.

iv) Fees for Service of Process. Attorneys may request reimbursement for fees for service of papers and the appearance of witnesses.

v) Interpreter Services. Attorneys may request reimbursement for costs of interpreter services.

vi) Photocopying, Telephone Calls. Attorneys may request reimbursement for out-of-pocket expenses incurred for photocopying, photographs used in the case, toll calls, etc., only if costs were incurred outside the attorney's office and necessary to the preparation of the case.

(h) The Fund may not be used to reimburse attorneys for general office expenses, including office overhead, payroll, equipment depreciation, basic telephone service, etc.

(i) The Fund may not be used to reimburse expenses that may be statutorily recovered or costs or fees taxed against the party or attorney.

(3) Attorneys' Fees Not Reimbursable from the Fund

Attorneys' fees may not be reimbursed from the Fund. However, in any action or proceeding to enforce a provision of 42 U.S.C.A. §§ 1981, 1981a, 1982, 1983, 1985 and 1986, title IX of Public Law 92-318, the Religious Freedom Restoration Act of 1993, or title VI of the Civil Rights Act of 1964, the Court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs. 42 U.S.C. § 1988.

In the event of an award of attorney's fees or costs to pro bono counsel in the course of litigation, the court may order return to the fund of any payments made from the fund to counsel for fees and expenses in an amount equal to the award.

(4) Requests for Reimbursement

(a) Requests for reimbursement from the Fund must be filed within 60 days of entry of judgment. If the attorney has withdrawn or been dismissed prior to the entry of judgment, the request for reimbursement must be filed within 60 days of withdrawal or dismissal.

(b) Requests for reimbursement from the Fund must be made on a form available on the Court's website and at all Clerk's Office locations in the Eastern District of Michigan.

B. Court Historical Society

The Court may make contributions from the Fund to the Court Historical Society at least annually in amounts to be approved at regular meetings of the Judges. These contributions will be on a voucher approved by the Chief Judge.

C. Library Services

(1) The Fund shall be used to purchase books, periodicals, goods and services for which appropriated funds are not available.

(2) Disbursements from the Fund up to \$500 are approved by the Court Administrator. Disbursements in excess of \$500 also require the approval of the Chief Judge.

(3) In the absence or unavailability of the Court Administrator, the Deputy Court Administrator may approve disbursements from the Fund under the same authority afforded the Court Administrator.

(4) The Court Administrator is authorized to pay the following recurring library expenses (up to \$500) without the approval of the Chief Judge:

- (a) annual supplements to publications;
- (b) renewal of periodical subscriptions;
- (c) inter-library loans for judicial officers and law clerks;
- (d) replacement volumes;
- (e) overdue book fees incurred by the library;
- (f) copying charges for materials obtained from other libraries;
and
- (g) replenishment of imprest fund.

D. Other Services

The following expenses may be paid from the Fund:

- (1) attorney admission fees upon presentation of proof that the fee was paid twice.
- (2) expenses related to photographs of the Court.
- (3) expenses related to ceremonial sessions of court, including programs and videotaping. Other related expenses determined appropriate by the Chief Judge may be paid from the Fund.
- (4) expenses towards the cost of any reception associated with a senior, senior-eligible, or retired judge's portrait dedication ceremony, or towards the total cost of that judge's portrait, portrait framing, and any reception associated with the portrait dedication ceremony.
- (5) goods and services for which appropriated funds are not available which promote the effective practice of law.
- (6) goods and services for which appropriated funds are not

available which benefit the bench and bar in the administration of justice.

E. Authorization Limits

(1) Requests for reimbursement in pro bono civil cases up to \$2,000 (detailed in Section A.2.) may be approved by the judge to whom the case is assigned. Requests in excess of \$2,000 require the additional approval of the Chief Judge. Such requests in excess of \$2,000 require the completion and submission of a "Preauthorization of Pro Bon Civil Expenses" form that requires the approval of both the assigned judge and Chief Judge. Failure to secure preauthorization will result in the denial of a request for reimbursement that exceeds \$2,000.

(2) The Court Administrator is authorized to pay expenses up to \$500 for goods or services listed in Section D. without the approval of the Chief Judge.

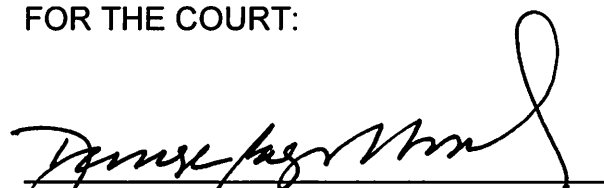
(3) Expenses between \$500 and \$2,500 for goods or services require the additional approval of the Chief Judge.

(4) Any proposal to spend more than \$2,500 for goods or services listed in Section D. must be approved by the Court.

F. Custodian of the Fund

The Court Administrator will maintain custody of the Fund and will render a fiscal-year accounting of receipts and disbursements to the Court.

FOR THE COURT:


Denise Page Hood
Chief Judge