

The United States District Court for the Northern District of New York Guidelines Governing Pro Bono Reimbursement from the District Court Attorney Admission / Non-Appropriated Funds Account

I. Introduction

The Northern District of New York Attorney Admission / Non-Appropriated Funds Account (*herein after referred to as the "District Court Fund"*) will reimburse certain expenses incurred by *pro bono* attorneys appointed by the Court who represent *pro se* litigants in civil actions in the Northern District of New York.

Please note, after appointment and a notice of appearance by the appointed attorney, the Court will re-generate all notices of electronic filing (NEF's) in the case so that the appointed counsel can download, print and save the entire case file without charge.

II. Limitations on Eligibility

Pursuant to **Local Rule of Civil Procedure, 83.2 (g), Reimbursement for Expenses**. *Pro Bono* attorneys whom the Court appoints pursuant to this Rule may seek reimbursement for expenses incident to representation of indigent clients by application to the Court. Reimbursement or advances shall be permitted to the extent possible in light of available resources and, absent extraordinary circumstances, shall not exceed **\$2,000.00**. Any expenses in excess of **\$500.00** should receive the Court's prior approval. If good cause is shown, the Court may approve additional expenses. Appointed counsel should seek reimbursement using the Pro Bono Fund Voucher and Request for Reimbursement Form and should accompany this form with detailed documentation. The Court advises counsel that if they submit a voucher seeking more than **\$2,000.00** without the Court's prior approval, the Court may reduce or deny the request. The Chief Judge or a judge whom the Chief Judge designates to authorize withdrawals must approve all reimbursements made by withdrawal from the District Fund. **To the extent that appointed counsel seeks reimbursement for expenses that are recoverable as costs to a prevailing party under Fed R. Civ. P. 54, the appointed attorney must submit a verified bill of costs on the form the Clerk provides for reimbursement of such expenses.**

Pursuant to Local Rule of Civil Procedure, 83.2 (h) Attorney's Fees. Except as provided in this subsection, an appointed attorney cannot recover attorney's fees from the *Pro Bono* Fund. However, in its discretion, the Court may award an appointed attorney for a prevailing party attorney's fees from the judgment or settlement to the extent that the applicable law permits. See, e.g., 28 U.S.C. § 2678 (permitting the attorney for a prevailing party under the Federal Tort Claims Act to recover up to 25% of any judgment or settlement); 42 U.S.C. § 1988(b) (authorizing an additional award of attorney's fees to prevailing parties in civil rights actions).

Only those costs associated with the preparation or presentation of a civil action in the United States District Court for the Northern District of New York shall be approved for reimbursement. No costs associated with the preparation or presentation of an appeal to the United States Court of Appeals for the Second Circuit or a petition to the United States Supreme Court shall be reimbursed from the District Court Fund.

III. **Procedure for Obtaining Reimbursement**

Requests for reimbursement of expenses shall be made on the voucher form approved by the Court and attached to these guidelines. The Form is also available on the Court's website at NYND.USCOURTS.gov. The request shall be accompanied by sufficient documentation to permit the Court to determine that the request is appropriate and reasonable and that the amounts have actually been paid out. The request for reimbursement shall be filed with the Clerk who shall audit the form and forward it to the presiding judge for review and approval. Final approval of all reimbursement requests shall be made by the Chief Judge. Reimbursement requests shall be filed with the Clerk within 30 days of the conclusion of the case. The presiding judge may extend the 30-day time frame for good cause shown.

In cases where an appointed attorney has withdrawn or has been dismissed prior to the entry of a judgment or other resolution of the case, that attorney shall file a request for reimbursement within 30 days of withdrawal or dismissal. Any work product or services obtained for which reimbursement of the expense(s) is requested from the District Court Fund shall subsequently be provided to newly-appointed counsel or, where no new counsel is provided, to the party for whom counsel was appointed.

IV. Allowable Expenses

An appointed attorney may request reimbursement of the following expenses, subject to approval by the presiding judge. Approval of expenditures will not be automatic and counsel shall be prepared to support any claim for reimbursement.

- ✓ **Photocopying.** The actual out-of-pocket expenses (up to a maximum of \$.20 per-page) incurred photocopying may be reimbursed. *Provide the number of copies.*
- ✓ **Postage.** Reimbursement may be made for the actual cost of case-related regular U.S. postage. There will be no reimbursement for expedited delivery costs unless approved by the presiding judge.
- ✓ **Computer Research Services.** Reimbursement may be made for the actual cost of case related computer research services. Must state the issue researched.
- ✓ **Depositions and Transcripts.** Reimbursement may be made for transcripts of depositions taken pursuant to court order or of court proceedings. The costs shall not exceed the regular copy rate as established by the Judicial Conference of the United States and in effect at the time any transcript was filed unless another rate was previously provided for by Order of the Court. Only the cost of the original of any transcript shall be allowed. *Receipts for transcript reimbursement are required.*
- ✓ **Travel Expenses.** Upon prior approval of the presiding judge assigned to the case, case related travel by privately owned automobile may be claimed at the rate then in effect for federal judiciary employees. Reimbursement for case related parking fees and highway tolls may also be claimed. Reimbursement for travel by any other means than an automobile must have prior approval from the Court. Lodging and meals may be reimbursed with prior authorization, but may not exceed the lodging and meals and incidental expense rates in effect at the time for federal judiciary employees. Counsel may not seek reimbursement from the District Court Fund for any travel, lodging, or meal expenses of the individual to which they are assigned. *Receipts will be required for all lodging expenses. Receipts will be required for any meal expenses in excess of \$50.00, and for any mode of transportation other than by automobile, when approved by the presiding judge. Alcohol is not reimbursable.*
- ✓ **Investigative or Expert Services.** Counsel may request investigative or expert services necessary for the adequate preparation of a matter to be presented to the Court. Such services must have prior Court approval by the presiding judge. *Receipts will be required.*

- ✓ **Service of Papers and Witness Fees.** Those fees for service of papers and the appearance of witnesses not otherwise avoided, waived or recoverable may be reimbursed from the District Court Fund. *Receipts will be required.*
- ✓ **Interpreter Services.** Costs of interpreter services not otherwise avoided, waived or recoverable may be reimbursed from the District Court Fund. Counsel should seek assistance in obtaining interpreter services from the Clerk of Court. *Receipts will be required.*
- ✓ **Other Expenses.** Expenses other than those described above may be approved by the presiding judge. No single expenses under this section exceeding \$500 shall be reimbursed absent the prior approval of the presiding judge. When requesting reimbursement for any expenses under this section, a detailed description of the expense and the reason it was required should be attached to the form petition for reimbursement filed with the Clerk.

- V. **Non-Allowable Expenses.** General office expenses, including personnel costs, rent, telephone services, secretarial help, office photocopying equipment and any general expense that would normally be reflected in the fee charged to a client are not reimbursable from the District Court Fund. Any expenses not properly documented with receipts or other proof may be disallowed by the presiding judge.

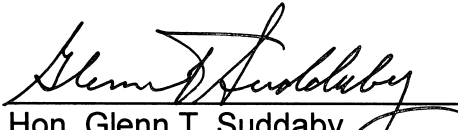
Counsel may not seek reimbursement from the District Court Fund for any travel, lodging, or meal expenses of the individual to which they are assigned. Counsel may not seek reimbursement for the cost of clothing to be worn at Court proceedings for the individual that they represent.

Reminder - Expenses which may statutorily be recovered or costs or fees taxed against a party are not reimbursable from the District Court Fund.

- VI. **Repayment of Advances.** An advance on the reimbursement of costs will only be allowed upon Order of the presiding judge when a showing of undue hardship is presented by the appointed attorney. In an instance where an advance for costs is made from the District Court Fund by the presiding judge to an appointed attorney who subsequently obtains an award of costs from the opposing party, the appointed attorney shall, upon receipt of the monies awarded, promptly repay the District Court Fund for any amount paid to him or her for expenses incurred in that action.

VII. Processing Requests for Reimbursement. Upon receipt of the Pro Bono Voucher Form and after the requested expenses have been audited and approved by both the presiding judge and chief judge for reimbursement, the Clerk shall determine whether or not any payments have previously been made out of the Fund to cover expenses in the same proceeding. If no such payments have been made, the Clerk shall promptly issue the required check(s) in the amount(s) indicated as approved by the presiding judge and chief judge.

These Guidelines were approved by the Board of Judges for the Northern District of New York
on this 12th day of April, 2018


Hon. Glenn T. Suddaby
Chief U.S. District Judge