

U.S. DISTRICT COURT  
N.D. OF N.Y.  
FILED  
JUNE 7, 2013

LAWRENCE K. BAERMAN, CLERK

**UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF NEW YORK**



**GENERAL ORDER #8**

PLAN FOR THE ADMINISTRATION AND OPERATION OF THE  
ATTORNEY ADMISSION / NON-APPROPRIATED FUNDS ACCOUNT

Original Creation Date: September 29, 1989

1<sup>st</sup> Amendment Date: December 3<sup>rd</sup>, 1999

2<sup>nd</sup> Amendment Date: December 6<sup>th</sup>, 2002

3<sup>rd</sup> Amendment Date: November 6<sup>th</sup>, 2003

4<sup>th</sup> Amendment Date: June 15, 2006

5<sup>th</sup> Amendment Date: September 15, 2007

6<sup>th</sup> Amendment Date: June 1, 2010

7<sup>th</sup> Amendment Date: January 1, 2011

8<sup>th</sup> Amendment Date: June 7, 2013

This Plan supersedes the Plan adopted by the Court on September 29, 1989, and subsequent amendments. The Northern District Attorney Admission / Non-Appropriated Fee Fund is established pursuant to Local Rule 83.1. Local Rule 83.1 establishes the fee to be paid into the Fund from a portion of the admission fees paid by attorneys seeking admission to this Court and from fees paid by attorneys admitted pro hac vice, the Court hereby adopts the following Plan for Administration and Operation of the District Court Attorney Admission / Non-Appropriated Fee Fund hereinafter referred to as the “District Court Fund.”

- A. Collection of Monies for the District Court Fund.** The District Court Fund shall be comprised of admission fees (*see L.R. 83.1(a)(5) and 83.1(d)*) and received by the Clerk for admission to the bar of this Court in excess of the basic fee set by the Judicial Conference pursuant to 28 U.S.C. Section 1914. Furthermore, the Clerk shall deposit all fees collected for admission pro hac vice into the District Court Fund. In addition to the initial admission fee, there shall be a **\$50.00** biennial registration fee. This fee shall be due every two-years unless deferred by the Board of Judges.
- B. Use of the District Court Fund.** The District Court Fund may be utilized for prepayment and/or reimbursement to pro bono counsel for out-of-pocket expenses and payment of witness fees or other expenses on behalf of indigent pro se litigants which are incurred incident to the preparation or presentation of a civil action in this Court. The fund may also be used for such other purposes which inure to the benefit of the members of the bench and the bar in the administration of justice for which appropriated funds are not available. Such other uses may include but are not limited to the following:
1. Attorney admission proceedings (including expenses of admissions, committees, and admission ceremonies).
  2. Naturalization proceedings.
  3. Attorney discipline proceedings (including expenses of investigating counsel for disciplinary enforcement, stenographers, meeting room rentals, postage, travel expenses and witness fees in disciplinary proceedings).
  4. Periodicals and publications for court libraries for which appropriated funds are not available.
  5. Furnishing, equipment, and amenities for lawyer lounges that may not be purchased or funded from appropriations. For example, furniture; photocopiers and fax machines; beverage supplies or service; microwave. refrigerator and other appliances; television, telephone and Internet service.
  6. Bench and bar committee meetings and conferences.
  7. Courtroom equipment and materials that benefit the bar including telephone lines for modem/DSL connections for counsel.

8. Annual Law Clerk Orientation Programs.
9. Sureties bond for the custodian of the fund. (Bond may only cover monies in the fund).
10. Fees for services rendered by outside auditors in auditing or reviewing the fund.
11. Reimbursement to jurors for lost or damaged personal property incident their jury service, when compensation is not available under a statute such as the Federal Tort Claims Act.
12. Costs associated with the duplication of Pro Bono cases.
13. Continuing legal education or training for law clerks.
14. Out of pocket expenses for Mediators and Early Neutral Evaluators.
15. Costs associated with maintaining the Historical Program for the Northern District of New York.
16. Hospitality items (e.g. food, beverages, mementos) for which appropriated funds may not be used, including meals and beverages for judges and employees attending a bench/bar meeting or similar event at their official duty station in a non-official capacity.
17. Cash donations to law related educational or charitable organizations, such as a historical society, law school or bar association for purposes that advance the administration of justice in the courts. In considering such donations, care should be exercised to avoid the appearance of impropriety, undue favoritism, conflicts of interest and other concerns under the Codes of Conduct for the United States Judges and Judicial Employees (Guide, Vol 2A).
18. Expenses of non-judiciary members serving on bench-bar committees, task forces or similar groups established by a court or judicial council to advance the work of the court. Examples include, but are not limited to: Criminal Justice Act committees, pattern jury instruction task forces, federal-state judicial councils.
19. Expenses of circuit judicial conferences to the extent permitted by the policy of the Judicial Conference of the United States.
20. Costs associated with conducting mock trial and/or community outreach programs (including expenses associated with security, transportation and hospitality items for the participants).

**C. Appointment of a Bench and Bar Attorney Admission/Non Appropriated Funds Committee.** The Court hereby authorizes the creation of an advisory committee which may include judges and/or other judicial officers and members of the bar to advise the Court and its custodian on matters of policy in the administration of the fund. Members of any such committee shall serve at the pleasure of the board of judges and without compensation.

**D. Limitations of Prepayment and/or Reimbursement.** Expense prepayment and reimbursement shall be made upon application to the Court, and, absent extraordinary circumstances, shall not exceed the amounts set forth in Local Rule 83.3. All payments from the Fund associated with the appointment of pro bono counsel must be approved initially by the presiding judicial officer before presentation to the Chief Judge for final approval. Absent extraordinary circumstances, requests for reimbursement of expenses not associated with the appointment of pro bono counsel will only be considered if such expenses are approved by the Pro Bono Advisory Committee prior to the incursion of the expense.

Additionally, absent extraordinary circumstances, expenses associated with securing the presence of the Pro Bono client at his or her Court proceedings are not reimbursable from the Fund.

**E. Withdrawals from the Fund.**

1. Expenses Associated with the Appointment of Pro Bono Counsel

All applications for prepayment or reimbursement from the fund for expenses of pro bono counsel appointed by the Court to represent indigent clients shall be approved by the presiding judicial officer or assigned magistrate judge. If the request for prepayment or reimbursement of pro bono counsel fees exceeds the per-case amount as set forth under Local Rule 83.3, the assigned judge or magistrate judge shall determine whether extraordinary circumstances exist to justify the excess payment. Upon approval by the presiding judicial officer, the application and findings of the judicial officer shall be forwarded to the Chief Judge for review and approval. Funds shall not be withdrawn from the District Court Fund without the written approval of the Chief Judge or the Chief Judge's designee.

2. Expenses Not Associated with the Appointment of Pro Bono Counsel

Requests for reimbursement of expenses not associated with the appointment of pro bono counsel must be made in accordance with procedures established by the trustee of the District Court Fund.

**F. Maintenance of the Fund.** The Clerk of the Northern District of New York shall be the trustee of the District Court Fund. The trustee shall:

1. Receive, safeguard, deposit, disburse and account for funds;
2. Establish an accounting system as required by the Court;
3. Insure that financial statements and operating reports are prepared

timely and signed by the trustee, thereby certifying that the statements and reports accurately represent the financial condition of the Fund;

4. Ensure IRS 1099-MISC forms are issued by January 31 of each year to any self-employed individual who received payments over \$600 in the prior calendar year from the Pro Bono account. A 1099-MISC is not required to be issued to corporations or to attorneys who received payments for reimbursed expenses.
5. Establish a procedure for the filing and processing of requests for prepayment and/or reimbursement, including documentation requirements therefor, and the orderly and expeditious referral of such requests to the presiding judicial officer for approval, and then to the Chief Judge for review and approval;
6. Perform such other functions as the Court may direct.

All monies shall be deposited in federally insured banks or savings institutions and whenever practical and feasible, all substantial sums should be placed in interest-bearing accounts, government securities, or money market funds invested in government obligations, at the direction of the Court. Efforts should be made to maximize the return on investments consistent with the requirements of convenience and safety.

Funds held by the trustee must be segregated from all other monies in the custody of the Court, including other NON-APPROPRIATED funds. Unreasonable accumulations should be avoided.

When a successor trustee is appointed, the outgoing trustee should prepare and sign the following statements in conjunction with an exit audit or inspection conducted by an auditor or disinterested inspector as designated by the Court:

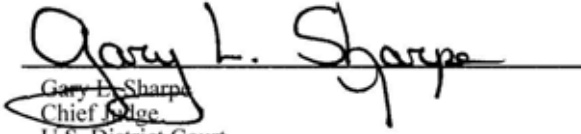
1. A statement of assets and liabilities;
2. A statement of operations or of receipts and disbursements since the end of the period covering the period since the last statement of operations and net worth, up to the date of transfer to the successor custodian; and
3. A statement of the balance in any fund accounts as of the date of transfer to the successor custodian.
4. The successor trustee shall execute a receipt for all funds after being satisfied as to the accuracy of the statements and records provided by the outgoing trustee. Acceptance may be conditioned upon audit and verification when the circumstances warrant.

**G. Auditing the Fund.** The attorney admission / non appropriated fund is subject to audit by the Administrative Office of the United States Courts. The court may appoint an outside auditor or disinterested person (who may be a government employee) to conduct such additional audits as the court

determines may be necessary or appropriate. The custodian shall provide the written results of such audits to the court and may make them available upon request to members of the bar of the court. The auditor may receive reasonable compensation from the attorney admission fund, if the auditor is not a government employee.

- H. Dissolution of the Fund.** The Court may dissolve the District Court Fund or any portion thereof at its discretion, after ensuring that all outstanding obligations are liquidated prior to the dissolution of the fund, including any expenses resulting from the required final audit.

Entered this 7<sup>th</sup> Day of June, 2013 at Albany, New York

  
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Gary L. Sharpe  
Chief Judge  
U.S. District Court