

GUIDELINES GOVERNING REIMBURSEMENT
FROM THE DISTRICT COURT FUND
OF EXPENSES INCURRED BY COURT APPOINTED COUNSEL

I. Introduction

It is the policy of this Court to encourage members of the bar to represent parties who are unable to afford counsel. In furtherance of this policy, the Court adopts these Guidelines governing the reimbursement of expenses of court-appointed counsel.

When an attorney has been appointed to represent an indigent party in a civil matter, that attorney may petition the Court for reimbursement of certain expenses. These expenses, which are defined in these Guidelines, must be incurred in the preparation and presentation of the case before this Court. Funding for this reimbursement program shall be obtained from this Court's District Court Fund and the total limit allowable, absent extraordinary circumstances, is \$1,200 per client represented.

II. Limitations on Eligibility

Any costs which are recoverable under the provisions of Titles 18 or 28 of the United States Code or which have been recovered under any other plan for reimbursement or which have been waived shall not be reimbursed from the District Court Fund. In no case shall an appointed attorney for a party who has been awarded costs and/or fees pursuant to a judgment in an action before this Court be eligible for reimbursement from the District Court Fund of expenses incurred in that action which were included and reimbursed in full in the judgment awarding costs and/or fees.

Only those costs associated with the preparation or presentation of a civil action in the United States District Court for the Western 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 of 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 available on request from the Clerk. 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 forward it to the presiding judge or, if the parties have consented to proceed before a magistrate judge pursuant to 28 U.S.C. § 636(c), the presiding magistrate judge. Requests for reimbursement of expenses may be made at any time during the pendency of the proceeding and up to thirty (30) days following either the entry of judgment on the merits in the proceeding or the entry of an order dismissing a settled action or, in cases where the represented party is seeking an award of attorneys fees and/or costs, the entry of judgment awarding or denying fees and/or costs. The presiding judge or magistrate judge may, for good cause shown, extend the time for filing a request.

In cases in which an appointed attorney has withdrawn or has been dismissed prior to the entry of a judgment, that attorney shall file a request for reimbursement within thirty (30) days of withdrawal or dismissal. Any work product or services obtained for which reimbursement of expenses is requested from the District Court Fund shall subsequently be provided to newly-appointed counsel or, where no new counsel is appointed, 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 or magistrate judge. Approval of expenditures will not be automatic and counsel shall be prepared to support any request for reimbursement.

A. **Depositions and Transcripts**

An appointed attorney may order transcripts of depositions necessary for the preparation of the case. The cost of such 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.

B. **Investigative or Expert Services**

Counsel may request investigative or expert services necessary for the adequate preparation of a matter to be presented before the Court. Such services must have prior Court approval by the presiding judge or magistrate judge (if the parties have consented to proceed before a magistrate judge in accordance with 28 U.S.C. § 636(c)) in order to seek reimbursement from the District Court Fund.

C. **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. Transportation other than by privately-owned automobile may be claimed on an actual expense basis.

D. Service of Papers and 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 District Court Fund.

E. Interpreter Services

Costs of interpreter services not otherwise avoided, waived or recoverable may be reimbursed from the District Court Fund.

F. Photocopying, Telephone Calls, Etc.

Actual out-of-pocket expenses incurred for such items as photocopying, photographs, toll calls, telegrams and the like necessary for the preparation of a case may be reimbursed from the District Court Fund.

G. Other Expenses

Expenses other than those described above may be approved by the presiding judge or magistrate judge. No single expense under this section exceeding \$100 shall be reimbursed absent the prior approval of the presiding judge or magistrate judge. When requesting reimbursement for any expenses under this section, a detailed description of the expenses should be attached to the 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 costs incurred in conducting computer-assisted legal research are not reimbursable from the District Court Fund. The expense of

printing briefs, regardless of the printing method utilized, is not reimbursable. Any expense not properly documented with receipts or other proof may be disallowed by the presiding judge or magistrate judge.

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

VI. Repayment of Advances

In an instance where an advance for costs is made from the District Court Fund by the presiding judge or magistrate 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 any amount paid to him or her for expenses incurred in that action.

VII. Processing of Requests for Reimbursement

On receipt of the voucher form indicating amounts approved 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 or checks in the amount indicated on the voucher form or the limit set by these Guidelines, whichever is lower. Where payments have previously been made from the Fund for expenses in the proceeding, the Clerk will determine whether the amounts authorized by the current voucher together with the amounts previously paid require consideration by the presiding judge or magistrate judge as to whether the matter presents extraordinary circumstances to justify payment in excess of the \$1,200 limit set by these Guidelines. Where such consideration is required, the Clerk shall promptly transmit the voucher to the presiding judge or magistrate judge. On receipt of an approved voucher from the presiding judge or magistrate judge, the Clerk shall promptly issue the required check or checks in the amount indicated on

the voucher form. If the presiding judge or magistrate judge disallowed any or all of the requested amounts, the Clerk shall promptly transmit to the submitting attorney a copy of the voucher showing the action of the Court.

These Guidelines were adopted by the Court on May 5, 1993.

RODNEY C. EARLY
Clerk of Court