



**PLAN FOR THE ADMINISTRATION OF THE
BENCH AND BAR FUND**

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA**

JULY 29, 2020

I. Establishment of the Bench and Bar Fund

- A. Authority. The United States District Court for the Middle District of North Carolina establishes the Bench and Bar Fund (“*Fund*”) pursuant to the policies of the Judicial Conference of the United States, as set forth in the *Guide to Judiciary Policy*, Volume 4, Chapter 6 (“*Guide*”), 28 U.S.C. §1914, Standing Order 2018-8 dated September 26, 2018, and the court’s inherent authority.
- B. Purpose. The *Fund* shall be used for the benefit of the bench and bar in the administration of justice. The *Fund* shall not be used to supplement appropriated funds, or to supplement the salary of any court officer or employee, or to pay for materials or supplies currently available from statutory appropriations.
1. Attorney Admission Funds. Attorney admission funds are non-appropriated funds segregated from all other monies in the court’s custody. Attorneys specially appearing must comply with Local Rule 83.1(d) and pay an attorney admission fee of twenty-five dollars (\$25.00) per case.
 2. Sources. Funding is derived from attorney admission fees collected for the filing of a notice of special appearance.
 3. Excluded Sources. Except as provided in the *Guide*, Vol 4., Ch. 6, §670.20(b)(6), monies from any other sources, including those specified in the §670(d), will not be placed in the *Fund*.

II. Bench and Bar Advisory Committee

- A. Purpose. Pursuant to the *Guide*, Vol. 4, Ch. 6, §670.6, the court establishes an Advisory Committee to provide advice and guidance to the chief judge on appropriate expenditures and to make decisions on matters of policy relating to the administration of the *Fund*. The Advisory Committee acts as the trustee of the *Fund* and is tasked with administration and operation of the *Fund* in compliance with the requirements of the *Guide*. A majority of votes of the Advisory Committee is required for any decision; provided that the chief judge may break any tie.
1. Except for expenses involving *pro bono* representation, final determination of requests for reimbursement over \$1,000.00 must be approved by the Advisory Committee.
 2. All *pro bono* representation expenses must be approved by the presiding judge of the case.
 3. All requests for reimbursement under \$1,000 may be approved by the chief judge or his or her designee.

- B. Composition of the Committee. The Advisory Committee shall consist of the chief judge, a judge of the Middle District of North Carolina, the clerk of court, a member of the Federal Bar Association, and any such other members of the Bar as deemed appropriate by the chief judge, after consultation with the court. The judge shall be appointed by the chief judge and shall serve for a three-year term. Attorney members shall be appointed by the chief judge and shall serve a three-year term, with the option for reappointment for an additional three-year term at the discretion of the chief judge.
- C. Chief Judge as chairperson. The chief judge, or his or her designee, shall act as chairperson and preside over the meetings of the Advisory Committee. The chief judge may act for the Advisory Committee when it is not practical to convene a meeting of the Advisory Committee.
- D. Meetings. The Advisory Committee may conduct its meetings by telephone, video conference, email, or in person. The chairperson calls meetings of the Advisory Committee as frequently as necessary to consider matters that the chief judge or his or her designee puts before it. Unless designated otherwise, the meetings of the Advisory Committee are not open to the public. However, the court's judges and employees may attend and participate in meetings.
- E. Dissolution. All members of the Advisory Committee serve at the pleasure of the chief judge and the court. The court may dissolve the Advisory Committee at any time. The chief judge may at any time remove a member of the Advisory Committee and appoint a new member, as provided for herein.
- F. No Compensation. No member of the committee shall be compensated for service on the committee except for reimbursement of expenses incurred while conducting committee business. The chief judge must approve reimbursement of any such expenses. Reimbursements shall be paid only from the *Fund*.

III. Policies for Fund Expenditures

- A. Permissible Uses. The *Fund* may only be used for court-related purposes that inure to the benefit of the members of the bench and the bar in the administration of justice. Proper uses of the *Fund* include but are not limited to the following:
 - 1. Attorney admission proceedings including direct expenses of admissions ceremonies.
 - 2. Attorney discipline proceedings including expenses of investigating counsel for disciplinary enforcement, travel expenses and witness fees.

3. Furnishings, equipment, and amenities for lawyer lounges that may not be purchased or funded from appropriations.
 4. Surety bond for the custodian of the fund to cover monies in the *Fund*.
 5. Fees for services rendered by outside auditors in auditing the *Fund* and expenses associated with the administration and operation of the *Fund*.
 6. Reimbursement of *pro bono* counsel for out-of-pocket expenses, payment of compensation to *pro bono* counsel, and payment of witness fees and other expenses on behalf of indigent pro se civil litigants. In the event of an award of attorney's fees or costs to *pro bono* counsel in the course of such 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.
 7. Educational programs for members of the bar of this court and educational program for community outreach, including but not limited to the court's civic initiatives.
 8. Expenses for other court and law-related programs and ceremonies for the benefit of the bench and bar, including but not limited to bench-bar conferences; international judicial programs; and investiture, historical, and portrait ceremonies, including the preparation and duplication of materials and the provision of refreshments in connection with such programs and ceremonies.
 9. Local transportation of a judge or court employee to attend qualifying bench/bar events.
- B. Uses Approved by General Counsel. The court will maintain a list of all requests for *Fund* expenditures for which the court has sought advice from the Office of General Counsel of the United States Courts, along with an explanation of whether General Counsel allowed each expenditure.

IV. Duties of the Custodian

- A. Chief Deputy Clerk as Custodian. The chief deputy clerk shall be custodian of the *Fund*. The custodian's duties are detailed in the *Guide*, Vol 4., Ch. 6, §670.70. In addition to the duties detailed in the *Guide*, the custodian shall prepare an annual report on the financial condition of the *Fund* to be submitted to the court no later than two months after the end of the fiscal year certifying that it accurately reflects the *Fund's* financial condition.
- B. Successor Custodian. Whenever a chief deputy clerk of this court leaves office, his or her successor in office becomes the successor custodian of the *Fund*. The outgoing custodian is required to participate in an exit audit, and the successor

custodian must execute a receipt for all monies in the *Fund* as provided in the *Guide*, Vol. 4, Ch. 6, §670.70.20(a) and (b).

- C. Budget and Finance Specialist. The budget and finance specialist shall supervise the maintenance, investment, and protection of the *Fund*, specifically to:
1. Receive, safeguard, deposit, and account for all monies in the *Fund* in accordance with any pertinent laws, internal controls, this plan, the *Guide*, and the policies established by the court;
 2. Reconcile the account and advise the custodian on the condition of the *Fund* by issuing monthly statements; and
 3. Arrange for an annual audit of the *Fund*.

V. Maintenance of the Funds

- A. Accounts. The custodian, with the guidance of the budget and finance specialist, will segregate monies in the *Fund* from all other monies in the court's custody by placing them only in federally-insured banks or savings institutions. When 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 Advisory Committee or chief judge. The custodian will leave sufficient liquid funds available to meet known or anticipated obligations, while maximizing, to the extent practicable, the amounts earning income.
- B. Reports. The custodian shall render an accounting to the court at least annually, within two months after the end of the fiscal year, which accurately reflects the financial condition of the *Fund*. The Advisory Committee may direct additional reports to include the following: beginning balance of assets; revenue during the reporting period, including collections and investments; disbursements during the reporting period; ending balance of assets (bank balances and undeposited collections); obligations, accounts payable, or known future expenditures; and available balance.
- C. Audits. Audits of the *Fund* are conducted according to the provisions in the *Guide*, Vol. 4, Ch. 6, §670.80.20.
- D. Record Keeping. Authorization order, bookkeeping, and supporting records for the *Fund* shall be maintained in the office of the clerk. All requirements of the *Guide*, Vol. 11, Ch. 2, §270 will be followed regarding verification and review of the *Fund*. All records, including authorization orders filed under seal, are available for inspection by auditors. Orders authorizing use of the *Fund* to incur litigation expenses shall be electronically filed in the related case and maintained with the *Fund's* supporting records.

- E. Disbursements. Disbursement from the *Fund* shall be made as provided for below.
1. All disbursements must be approved by order of the court.
 2. Disbursements of \$1,000 or less must be approved by the chief judge or his or her designee.
 3. Except for expenditures relating to a *pro bono* case, all expenditures exceeding \$1,000 must have prior approval by the Advisory Committee.
 4. Expenditures related to a *pro bono* case must be approved by the judge presiding over the case.
 5. Upon presentation of an order signed by the court and appropriate documentation demonstrating that the expenditure meets the guidelines set out by this Plan, the custodian shall issue payment from the *Fund*.
 6. All disbursements from the *Fund* will be made by check, which must bear two signatures. The following individuals are eligible to sign checks: the chief judge; the chief deputy clerk; any district judge of the court who is shown on the account's authorized signature cards.

VI. Procedures for Seeking Reimbursement from the *Fund*

- A. Prior Authorization to Incur Expenses. Whenever practical, prior authorization should be sought before expenses are incurred. Applications for authorization to incur expenses to be paid by the *Fund* should be submitted in writing and directed to the following:
1. For litigation expenses in a *pro bono* cases, application by persons other than the presiding judge must be submitted for approval to the presiding judge in the case, in accordance with the *Guidelines Governing the Reimbursement of Expenses in Pro Bono Cases* and attached to this plan as Appendix A;
 2. For all other expenditures, the application must be submitted to the chief judge.
- B. Applications by a Judge. Applications submitted by a judge will be directed to the chief judge.
- C. Applications for Authorizations. Applications for authorization to incur expenses shall set forth the purposes for incurring the expenses, the estimated cost, the applicant's efforts to keep the cost as low as possible, and the applicant's efforts

to obtain funds from other sources to pay the expenses. The guidelines for reimbursable *pro bono* appointment expenses are attached to this plan as Appendix A.

- D. Repayment from Judgment or Settlement. An application for authorization to incur litigation expenses to be paid from the *Fund* constitutes an agreement that amounts reimbursed must be repaid, in whole or in part, if the case is settled with the payment of money, if fees and costs are awarded under 42 U.S.C. §1988 or any other fee-shifting statute, or if the party is awarded monetary damages. The amount of the reimbursement shall be determined by the presiding judge of the case.

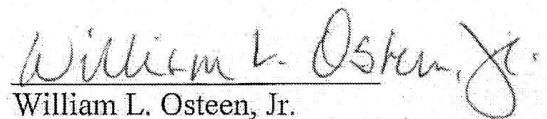
VII. Dissolution of the Fund

- A. By Vote. A majority of the active district court judges may vote to dissolve the *Fund*.
- B. Final Audit. If the district judges vote to dissolve the *Fund*, a final audit will be conducted and a written accounting rendered to the court, according to the *Guide*, Vol. 4, Ch. 6, §670.80.30.
- C. Notice to Claimants. At the time of dissolution, the custodian will give notice to all persons known or believed to have incurred expenses for which the *Fund* may be authorized or obligated to pay. Such persons shall be given at least 30 days to submit their claims for payment.
- D. Remaining Monies. Any balances in the *Fund* shall be disposed of in accordance with the majority vote of the active district judges in ways that fulfill or further the purposes of the *Fund*.

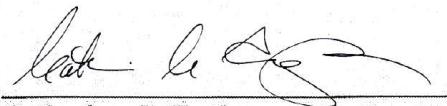
IT IS THEREFORE ORDERED that this Plan for the Administration of the Bench and Bar Fund is adopted by the court on this 29th day of July, 2020.



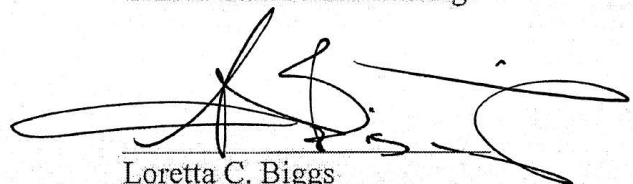
Thomas D. Schroeder
Chief United States District Judge



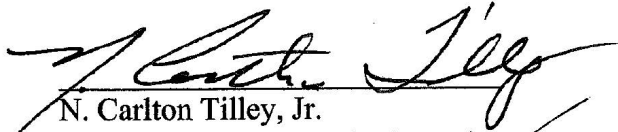
William L. Osteen, Jr.
United States District Judge



Catherine C. Eagles
United States District Judge



Loretta C. Biggs
United States District Judge


N. Carlton Tilley, Jr.
Senior United States District Judge

**SCHEDULE OF REVISIONS TO
THE PLAN FOR THE ADMINISTRATION OF THE BENCH AND BAR FUND**

Date	Section Number and Title



APPENDIX A

GUIDELINES GOVERNING REIMBURSEMENT OF EXPENSES IN PRO BONO CASES

JULY, 2020

I. Eligibility for Reimbursement

An attorney appointed by a judge of this court to represent an indigent party in a civil case may petition the court for reimbursement of certain expenses incurred in the preparation and presentation of the case, subject to these guidelines. Unless the court shall otherwise order, the maximum reimbursement shall not exceed \$2,500.00 per case, unless approved in advance by the judicial officer to whom the case is assigned.

II. Restrictions on Eligibility

- A. Any costs that are either waived or recoverable under the provisions of Title 18, U.S. Code or Title 28, U.S. Code or which have been otherwise recovered, shall not be reimbursed pursuant to these guidelines.
- B. Costs and/or fees awarded in favor of the indigent party represented by appointed counsel and against another party pursuant to a judgment or other order of the court shall not be eligible for reimbursement pursuant to these guidelines.
- C. Unless otherwise specifically approved by the court, only those costs associated with the preparation or presentation of a civil action in the United States District Court for the Middle District of North Carolina shall be approved for reimbursement. No costs associated with the preparation or presentation of an appeal to the United States Court of Appeals or the United States Supreme Court shall be reimbursed pursuant to these guidelines.
- D. Any costs or fees taxed against the represented party or appointed counsel as a result of a court ruling or as part of a judgment obtained by an adverse party in a civil action before this court shall not be eligible for reimbursement pursuant to these guidelines.

III. Procedures for Requesting Reimbursement

- A. Within thirty (30) days of the entry of a judgment or order of dismissal, the appointed attorney must apply for reimbursement of expenses by submitting to the Clerk's Office the "Request for Reimbursement of *Pro Bono* Attorney Expenses in Civil Cases." The request must be accompanied with sufficient supporting documentation to permit determination that the request is appropriate and reasonable and that the amounts for expenses have actually been paid out. For good cause shown, an attorney may petition the court for an interim reimbursement. After review, the Clerk's Office will forward the request to the presiding judicial officer for approval.
- B. Upon receipt of the approval of payment of expenses by the presiding judicial officer, the Custodian of the NCMD Bench and Bar Fund shall promptly issue the required check in the amount(s) indicated on the voucher.

- C. In the event an appointed attorney has withdrawn or has been dismissed prior to the entry of judgment or order of dismissal, that attorney may file a request within thirty (30) days of such withdrawal or dismissal for allowable expenses incurred prior to the withdrawal or dismissal. The court may condition reimbursement on a showing that attorney work product or discovery materials useful to the continued prosecution of the represented party's case have been provided to the successor counselor, where there is no successor counsel, to the represented party. Except for good cause shown, the Court will not allow reimbursement of fees or expenses where the request was filed more than thirty (30) days after the entry of the order of withdrawal.
- D. If, after a reimbursement is approved and paid pursuant to these guidelines, the appointed attorney subsequently receives from another source an amount on account of the reimbursed expenses, counsel shall, within thirty (30) days from said recovery, return to the court the amount of the prior reimbursement equal to the amount received from the other source.
- E. Amounts reimbursed must be repaid, in whole or in part, if the case is settled with the payment of money, if fees and costs are awarded under 42 U.S.C. §1988 or any other fee-shifting statute, or if the party is awarded monetary damages. The amount of the reimbursement shall be determined by the presiding judicial officer.

IV. Reimbursable Expenses

Subject to judicial review and approval, the following out-of-pocket expenses may be reimbursed:

- A. Depositions and Transcripts. Court reporter attendance fees for depositions of essential witnesses and transcription fees for such depositions, the cost of which 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 or deposition was filed.
- B. Investigative, Expert or Other Services. The cost of investigative or expert services which are necessary to the preparation of the case if approved in advance by the judicial officer to who the case is assigned.
- C. Mileage and Travel Expenses. Mileage at the current rate authorized for federal employees as well as out-of-pocket expenses for other travel expenses (parking, tolls and similar costs).
- D. Service/Witness Fees. Fees for service of papers and the appearance of lay witnesses at depositions and their mileage fees.
- E. Interpreter Services. The cost of interpreter services if approved in advance by the judicial officer to whom the case is assigned.

- F. Expert Fees. The cost of expert fees if approved in advance by the judicial officer to whom the case is assigned.
- G. Photocopies, Photographs, Printing, Long Distance Telephone Calls, etc. Reasonable out-of-pocket expenses incurred for items such as photocopies, photographs, printing, long distance telephone calls, express and overnight delivery services.
- H. Other Expenses. Additional expenses may be approved by the presiding judge. However, no such additional expenses shall be eligible for reimbursement unless, prior to the expenses being incurred, the attorney shall have obtained the written approval of the presiding judge. Such approval may be obtained by means of an *ex parte* request for approval, which shall not be docketed on the official docket of the case, and must contain a detailed description of the expenses requested.

V. **Restrictions on Reimbursement**

- A. General office overhead, including paralegal fees, is not reimbursable pursuant to these guidelines.
- B. The presiding judge may disallow any expense that is not properly documented.
- C. The presiding judge may disallow any reimbursement if it is determined that the appointed attorney did not pursue reasonable courses of recovery of expenses, including seeking statutorily permitted costs and fees, prior to application for reimbursement pursuant to these guidelines.

REVISION CONTROL LOG

Section Revised	Date Revised	Reason for Revision