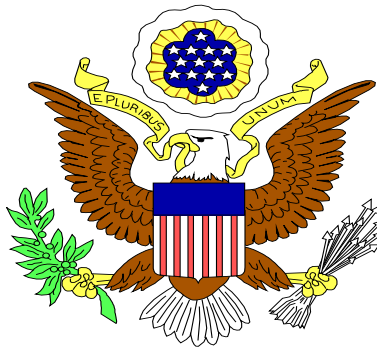


UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK



AMENDED PLAN FOR THE ADMINISTRATION  
OF THE DISTRICT COURT FUND

OCTOBER 23, 2009

## PLAN FOR THE ADMINISTRATION OF THE DISTRICT COURT FUND

WHEREAS, Local Rule 83.1 of the Local Rules for the United States District Court for the Western District of New York provides for a District Court Fund (Fund) to be established and maintained from a portion of the admission fees paid by attorneys seeking admission to this Court, and from the fees paid by attorneys admitted *pro hac vice*, the Court hereby adopts the following amended Plan for the Administration of the District Court Fund (Plan) as a means for setting policy which shall govern the use of the Fund.

- A. Collection of Monies for the District Court Fund. The District Court Fund shall be comprised of admission fees received by the Clerk of the Court for admission to the bar of this Court in excess of the basic fee set by the Judicial Conference of the United States pursuant to 28 U.S.C. § 1914. Furthermore, the Clerk shall deposit all fees collected for admission *pro hac vice* into the District Court Fund.
- B. Procedures. The Clerk shall also establish and maintain a checking account under the name "U.S. District Court - District Court Fund" with a designated financial institution, and shall deposit into this account all supplemental attorney admission fees collected for the Fund, including all interest accrued on this account. No disbursements shall be made from the Fund, nor shall any changes be made to the nature of the accounts wherein the funds are being held, except by Order of the Court.
- C. Custodian of the Fund. The Clerk of the Western District of New York shall be the custodian of the District Court Fund. In the event of the death, retirement or resignation of the Clerk, the Chief Deputy Clerk, or such other person as the Chief Judge designates, shall become the custodian until such time as the next Clerk assumes office.
- D. Duties and Responsibilities of the Custodian. The responsibilities of the custodian are as follows:

- (1) to receive, safeguard, deposit, disburse, and account for all monies in accordance with the law, this Plan, and the policies established by the Court;
- (2) to establish an accounting system for the Fund;
- (3) to insure that quarterly financial statements and operating reports are prepared in a timely fashion and to sign such statements and reports, thereby certifying that they accurately present the financial condition of the Fund;
- (4) to invest funds in accordance with the provision of the Plan, as described in Section G.;
- (5) to establish a procedure for the filing and processing of requests for payment including documentation requirements, and the orderly and expeditious referral of such requests to the assigned judge or magistrate judge for approval; and
- (6) to perform such other functions as the Court may direct.

E. Responsibilities upon Appointment of a Successor Custodian. When a successor custodian is appointed, the outgoing custodian shall 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 Chief Judge:

- (1) a statement of assets and liabilities;
- (2) a statement of operations or of receipts and disbursements 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.

The successor custodian shall execute a receipt for all funds after being satisfied as to the accuracy of the statements and records provided by the outgoing custodian. Acceptance may be conditioned upon an audit and verification where circumstances warrant.

F. Audits and Inspections. The Fund is subject to audit by the appropriate staff of the Administrative Office of the United States Courts during their periodic review of the business of the Court. The Chief Judge may appoint an auditor or disinterested inspector (who may be a government employee) to conduct such audits as the Court determines to be necessary. The written results of such audit or inspection will be provided to the Court.

G. Protection of the Fund's Assets. Except as otherwise provided in the Plan, all monies shall be deposited in federally insured banks or savings institutions. Whenever practical and feasible, the custodian shall place any substantial sums into 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.

District Court Fund monies must be segregated from all other monies in the custody of the Court, and shall contain only attorney admission fees, plus any interest income accrued on such fees. The Court shall not subsidize the Fund with monies from any other source.

H. Use of the Fund. Monies deposited into the Fund are to be used only for purposes which benefit members of the bench and bar in the administration of justice. Permitted uses of the Fund include, but are not limited to, the following:

(1) expenses necessarily and reasonably incurred by pro bono attorneys assigned by the Court pursuant to 28 U.S.C. § 1915 to represent indigent parties in civil proceedings consistent with Local Rule 83.1(m) and the associated Guidelines governing such disbursements;

(2) expenses related to attorney admission proceedings;

- (3) expenses related to attorney disciplinary proceedings;
- (4) furnishings, equipment, and amenities for attorney lounges in each courthouse that may not be purchased or funded from appropriations;
- (5) expenses for programs, exhibits and materials that promote legal, judicial and court administration education or that encourage public awareness about the role of federal courts in the administration of justice, including the collection, restoration, preservation and/or display of court records or other artifacts of historical significance as well as judicial portraits, historical photographs, art works, oral histories, etc.;
- (6) expenses related to providing expressions of sympathy, concern, or congratulations as may be appropriate to recognize significant events affecting members and friends of the legal profession;
- (7) expenses incurred by the custodian in performing his/her duties under the Plan including the expense of a surety bond covering monies in the Fund;
- (8) fees for services rendered by outside auditors or inspectors in auditing or inspecting the records of the Fund; or
- (9) such other expenses as may from time to time be authorized, including committee meetings, ceremonial occasions, and awards.

I. Limitations of the Fund. Attorney admission funds shall not be used to pay for goods or services for which appropriations may legally be used, even if the appropriated funds are exhausted or otherwise not available. Use of attorney admission funds for any purpose for which appropriated funds may legally be used constitutes an impermissible augmentation of appropriations, with the exception of purchasing books, periodicals and other resource materials for court libraries.

In addition, expense pre-payment and reimbursement to pro bono counsel in the representation of indigent clients shall be made upon application to the Court and, absent extraordinary circumstances, shall be limited to \$1,800 per client represented. The judge or magistrate judge to whom the case is assigned or referred is authorized to approve pre-payments or reimbursements to be paid from the Fund. If the total of the payments requested and those already allowed exceed \$1,800, the judge or magistrate judge shall determine whether extraordinary circumstances exist to justify payment in excess of the \$1,800 limitation.

- J. Dissolution of the Fund. Should the Court decide to dissolve the Fund, a final audit shall be performed, and a written accounting rendered to the Court before dissolution of the Fund. The custodian shall ensure that all outstanding obligations are liquidated prior to the dissolution, including making provisions for the payment of any fees and expenses resulting from the required terminal audit or inspection. The Court will direct the disposition of the remaining assets of the Fund in ways which fulfill the purpose of the Fund.

**SO ORDERED BY THE COURT EN BANC AND FILED October 23, 2009:**

*/s/ Richard J. Arcara*  
Richard J. Arcara, Chief  
United States District Judge

*/s/ William M. Skretny*  
William M. Skretny  
United States District Judge

*/s/ Charles J. Siragusa*  
Charles J. Siragusa  
United States District Judge

*/s/ John T. Curtin*  
John T. Curtin  
Senior United States District Judge

*/s/ Michael A. Telesca*  
Michael A. Telesca  
Senior United States District Judge

*/s/ David G. Larimer*  
David G. Larimer  
Senior United States District Judge