

**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 on a *pro bono* basis. In furtherance of this policy, the Court adopts these Guidelines governing the reimbursement of expenses incurred by 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, except for good cause shown, is \$5,000 per client represented.

**II. Limitations on Eligibility**

Any costs which are statutorily recoverable 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 (or other order entered) 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 the Court's website, <http://nywd.uscourts.gov>, or upon request from the Clerk. The reimbursement 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 submitted to the Clerk's Office Attn: Finance Department. 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 or the entry of an order dismissing a settled action or, in cases where the represented party is seeking an award of attorney's fees and/or costs, the entry of judgment awarding or denying fees and/or costs. The district judge or magistrate judge ("presiding 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. Approval of expenditures will not be automatic and counsel shall be prepared to support any request for reimbursement. Prior approval of expenditures will not be required unless set forth below.

#### A. **Deposition 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/ordinary transcript 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.

**B. Investigative or Expert Services**

Counsel may submit an *ex-parte* request for 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, and counsel must make a showing that the rates, fees, charges, etc. for such expert services are at or below market and otherwise reasonable under all applicable circumstances 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 expenses basis, and must be approved by the presiding judge prior to the travel.

**D. Service of Papers and Witness Fees**

Those fees for service of papers and the appearance of witnesses that are not otherwise waived or recoverable may be reimbursed from the District Court Fund.

**E. Interpreter Services**

Costs of interpreter services not otherwise waived or recoverable may be reimbursed from the District Court Fund not to exceed the Contract Court Interpreter rates established by the Judiciary.

**F. Photocopying, Telephone Calls, Etc.**

Actual out-of-pocket expenses incurred for such items as photocopying by an outside vendor, photographs, postage, 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. Any such single expense exceeding \$500 must be pre-approved by 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 petition for reimbursement filed with the Clerk.

**V. Non-Allowable Expenses**

General office expenses, including personnel costs, rent, telephone services, administrative assistance, 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 expenses not properly documented with receipts or other proof may be disallowed by the presiding judge.

Costs, fees, or expenses which are statutorily recovered as an award against a party or his/her appointed counsel are not reimbursable from the District Court Fund.

**VI. Repayment of Advances**

In an instance where reimbursement is made from the District Court Fund to an appointed attorney who subsequently obtains an award of costs by settlement or judgment 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 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 transmit the voucher to the presiding judge. On receipt of an approved voucher from the presiding judge, the Clerk shall promptly issue the required check or checks in the amount(s) 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 as to whether the matter presents good cause to justify payment in excess of the \$5,000 limit set by these Guidelines. Where such consideration is required, the Clerk shall promptly transmit the voucher to the presiding judge. On receipt of an approved voucher from the presiding judge, the Clerk shall promptly issue the required check or checks in the amount(s) indicated on the voucher form. If the presiding judge disallowed any or all of the required 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 1.24.2020.

  
MARY C. LOEWENGUTH  
Clerk of Court