

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA**



**GENERAL ORDER
AND
PLAN FOR THE ADMINISTRATION AND OPERATION
OF THE DISTRICT AND BANKRUPTCY COURT
VISITING ATTORNEY FEE/NON-APPROPRIATED FUNDS**

Amended and Adopted by the Court on March 26, 2013

Original General Order Date August 1, 2006
First Amendment July 11, 2008

TABLE OF CONTENTS

| | | |
|-----|---|---|
| 1.0 | General..... | 1 |
| 1.1 | Adoption and Implementation | 1 |
| 1.2 | Purpose..... | 1 |
| 1.3 | Authority | 1 |
| 1.4 | Amount of Fee | 1 |
| 2.0 | Receipt and Deposit of Monies for the Visiting Attorney Fee/Non-Appropriated Funds.. | 1 |
| 2.1 | District Court | 1 |
| 2.2 | Bankruptcy Court..... | 2 |
| 2.3 | Limitations on Deposits | 2 |
| 3.0 | Fund Expenditures | 2 |
| 3.1 | General | 2 |
| 3.2 | Appointment of Bench and Bar Visiting Attorney Fee/Non-Appropriated Funds Committees | 2 |
| 3.3 | Authorized Expenditures | 2 |
| 4.0 | Limitations on Use of Visiting Attorney Fee/Non-Appropriated Funds | 4 |
| 5.0 | Maintenance of the Funds..... | 5 |
| 5.1 | Custodian of the Funds | 5 |
| 5.2 | Duties of the Custodian..... | 5 |
| 6.0 | Auditing the Funds..... | 5 |
| 7.0 | Duties on Appointment of a Successor Custodian..... | 6 |
| 8.0 | Dissolution of the Funds | 6 |

1.0 General

1.1 Adoption and Implementation

This Plan supersedes the General Order and Plan originally adopted by the Court on August 1, 2006, and the first amendment on July 11, 2008.

1.2 Purpose

The United States District Court has adopted this Plan for the Administration and Operation of the District Court Visiting Attorney Fee/Non-Appropriated Funds (the Plan). The purpose of the Plan is to provide guidance for receipting, depositing, disbursing, and accounting for monies maintained in the Court's Non-Appropriated Funds from fees paid by visiting attorneys admitted pro hac vice.

1.3 Authority

The Visiting Attorney Fee for the Southern District of West Virginia is established pursuant to L R Civ P 83.6(c)(1) and L R Cr P 44.6(c)(1).

Attorneys admitted to practice in the United States District Court for the Southern District of West Virginia (District Court) are admitted to practice before the United States Bankruptcy Court for the Southern District of West Virginia (Bankruptcy Court). Effective January 1, 2013, visiting attorneys not admitted to practice in the District Court who wish to appear or be listed as counsel of record in the Bankruptcy Court are required to first qualify for admission in the District Court under L R Civ P 83.6(c)(1) and Bankruptcy Local Rule 2090-1(b).

1.4 Amount of Fee

The Visiting Attorney Fee is set in the amount of \$50.00.

2.0 Receipt and Deposit of Monies for the Visiting Attorney Fee/Non-Appropriated Funds

2.1 District Court

The District Court shall receipt and deposit funds collected as visiting attorney fees for District Court matters in an interest-bearing District Court Non-Appropriated Funds account.

2.2 Bankruptcy Court

The District Court shall receipt and deposit funds collected as visiting attorney fees for Bankruptcy Court matters, including adversary proceedings, into a separate interest bearing account and shall notify the Bankruptcy Court when such fees are collected.

2.3 Limitations on Deposits

2.3.1 The Clerk of Court shall deposit all monies collected under the Plan only in federally insured banks or savings institutions.

2.3.2 Visiting attorney fee/non-appropriated funds shall be segregated from all other monies held in the custody of the court.

2.3.3 The court shall avoid an unreasonable accumulation of visiting attorney fee/non-appropriated funds.

3.0 Fund Expenditures

3.1 General

Expenditures from the visiting attorney fee/non-appropriated funds are to be used only for purposes that inure to the benefit of the members of the bench and the bar in the administration of justice.

3.2 Appointment of Bench and Bar Visiting Attorney Fee/Non-Appropriated Funds Committees

The court hereby authorizes the creation of an advisory committee, one for District and one for Bankruptcy, 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 either committee shall serve at the pleasure of the District Chief Judge and without compensation.

3.3 Authorized Expenditures

Examples of proper common uses of the visiting attorney fee/non-appropriated funds include, but are not limited to the following:

3.3.1 Attorney Admissions Proceedings: Including expenses of admission committees and admission ceremonies.

- 3.3.2 Attorney Discipline Proceedings: Including but not limited to expenses of investigating counsel for disciplinary enforcement, stenographers, meeting room rentals, postage, travel expenses and witness fees in disciplinary proceedings.
- 3.3.3 Attorney Lounge Facilities: Including expenses to furnish, equip, and operate attorney lounge facilities, e.g., furniture; photocopiers and fax machines; beverage supplies or services; microwave; refrigerator, and other appliances; and television, telephone, and Internet service.
- 3.3.4 Surety Bonds: Surety bonds, if required by the court, for the custodian of the fund and designated deputy clerks, to cover only the monies in the funds.
- 3.3.5 Auditing Fees: Fees for services rendered by outside auditors or accountants in auditing the funds.
- 3.3.6 Pro Bono Expenses: 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 for indigent pro se civil litigants.
- 3.3.7 Reimbursement to Jurors: Reimbursement to jurors for lost or damaged personal property incident to their jury service, when compensation is not available from the United States under a statute such as the Federal Tort Claims Act.
- 3.3.8 Hospitality Items: Hospitality items (e.g., food, beverages, and 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. Memento items may contain the court's insignia or seal.
- 3.3.9 Cash Donations: 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. (*The Guide*, Volume 2A)
- 3.3.10 Circuit Judicial Conference Expenses: Expenses of circuit judicial conferences, to the extent permitted by the policy of the Judicial Conference of the United States.

- 3.3.11 Naturalization Proceedings
- 3.3.12 District-Wide Bench/Bar Meetings
- 3.3.13 Periodicals and publications for court libraries for which appropriated funds are not available.
- 3.3.14 Court-related and Continuing Legal Educational Programs: Including expenses for members of the bar, their support staff, the CJA Panel, law clerks, law students, or members of the public, including but not limited to the preparation and duplication of materials and the provision of refreshments in connection with such programs.
- 3.3.15 Educational Outreach: Including expenses to promote and assist area high schools participating in the events sponsored by the court.
- 3.3.16 Historical Works: Including expenses relating to the collection, restoration, preservation, and/or display of pictures, judicial portraits and photographs, oral histories, artwork, and other artifacts of historical significance.
- 3.3.17 Court Ceremonies: Including expenses relating to judicial investitures, retirements, memorial or historical occasions, or other appropriate judicial or court-related proceedings advised and recommended by the court to the advisory committee, but only for expenses for which appropriated funds may not be used.
- 3.3.18 Overtime Utilities and Court Security for Unofficial Court Functions: For overtime utility and court security expenses incurred for unofficial events and functions that benefit the bench and the bar in the administration of justice, such as receptions and other social events involving members of the Court and sponsored by a bar association; bench and bar association-type meetings; other events of legal-related organizations or entities using courthouse space (e.g., law school and high school moot court competitions); routine meetings of Inns of Court, etc.
- 3.3.19 Out-of-pocket expenses for Mediators and Early Neutral Evaluators.
- 3.3.20 Any other purpose for which appropriated funds may not legally be used that will benefit the bench and bar in the administration of justice.

4.0 Limitations on Use of Visiting Attorney Fee/Non-Appropriated Funds

The visiting attorney fee/non-appropriated funds must 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 (e.g., because an expenditure would exceed a judiciary spending limit). Use of visiting attorney fee/non-appropriated funds for any purpose for which appropriated funds may legally be used constitutes an impermissible augmentation of funds.

5.0 Maintenance of the Funds

5.1 Custodian of the Funds

The Clerk of the District Court shall be the custodian of the visiting attorney fee/non-appropriated fees accounts. The Clerk may delegate fund accounting and reporting responsibilities to any authorized deputy clerk.

5.2 Duties of the Custodian

The custodian shall:

- 5.2.1 Ensure that all monies are received, safeguarded, deposited, disbursed and accounted for in accordance with any pertinent laws. The countersignature of the Chief Probation Officer is required by the court for the expenditure of funds.
- 5.2.2 Secure a bond, to be paid for from the funds, if required by the court.
- 5.2.3 Establish an accounting system as required by the court.
- 5.2.4 Ensure that financial statements and operating reports are prepared timely and signed by the custodian, thereby certifying that the statements and reports accurately represent the financial condition of the Fund.
- 5.2.5 Perform such other functions as the court may direct.

6.0 Auditing the Funds

The visiting attorney fee/non-appropriated funds are subject to audit by the Administrative Office of the United States Courts.

The District Court will appoint an outside auditor or disinterested person (who may be a government employee) to conduct an annual financial review of the visiting attorney fee/non-appropriated funds or such additional financial review or inspection of the records as the court determines may be necessary or appropriate.

The custodian shall provide the written results of such financial review or inspection to the court and may make them available upon request to members of the bar. Reasonable

compensation may be provided from fund assets if the auditor or accountant is not a government employee acting in an official capacity.

7.0 Duties on Appointment of a Successor Custodian

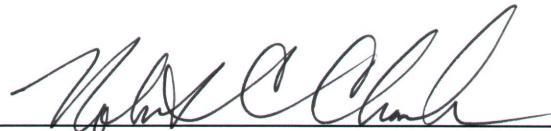
When a successor custodian is appointed, the Clerk, in the role as custodian, shall prepare and sign the following statements in conjunction with an exit audit or inspection conducted by an auditor or disinterested person as designated by the court:

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.
4. 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 audit and verification when the circumstances warrant.

8.0 Dissolution of the Funds

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.

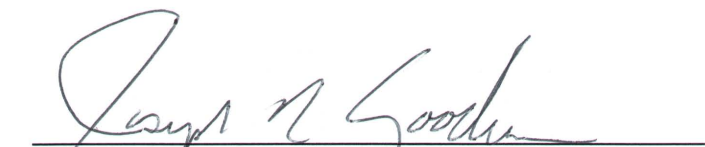
IT IS SO ORDERED this 26 day of March, 2013, in Charleston, West Virginia, on behalf of the Judges of the United States District Court, Southern District of West Virginia.




Robert C. Chambers
Chief United States District Judge



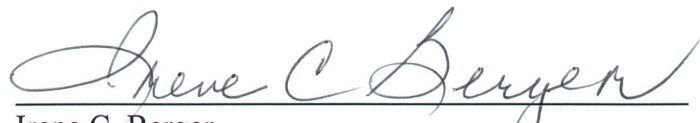
John F. Copenhaver, Jr.
United States District Judge




Joseph R. Goodwin
United States District Judge



Thomas E. Johnston
United States District Judge



Irene C. Berger
United States District Judge



David A. Faber
Senior United States District Judge