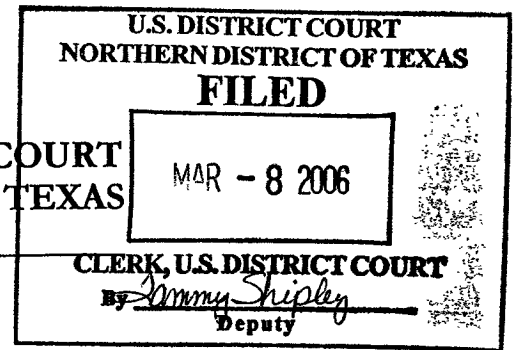


IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS



MISCELLANEOUS ORDER NO. 16

**PLAN FOR THE ADMINISTRATION  
OF THE NON-APPROPRIATED FUND**

The judges of the United States District Court for the Northern District of Texas hereby adopt this Plan for the Administration of the Non-Appropriated Fund. This Plan supersedes all prior Plans for the Administration of the Non-Appropriated Fund.

**I. Administration of Non-Appropriated Fund**

**A. Advisory Committee**

The members of the Non-Appropriated Fund Advisory Committee shall include the Chief Judge as Chairman; a District Judge to be appointed by the Chief Judge for a term of six years; a Magistrate Judge to be appointed by the Chief Judge for a term of six years; a member of the bar admitted to this district in the Dallas division to be appointed by the Chief Judge for a term of two years; a member of the bar admitted to this district in another division to be appointed by the Chief Judge for a term of two years; and the Clerk of Court. Members of this Committee shall serve without compensation. The Committee will:

1. Advise the court and its Custodian on matters of policy in the administration of the Fund;

2. Authorize expenditures when determined by the Committee that said disbursements are appropriate and will be of benefit to the bench and bar in the administration of justice;
3. Review the quarterly financial statements prepared by the Custodian and thereby confirm the adequate safeguarding and investment of the Fund or advise the Custodian of any inadequacy of financial accounting methods, records, or reports.

B. Custodian/Trustee

The Clerk of Court will serve as the Custodian/Trustee of the Non-Appropriated Fund for this court. The Custodian/Trustee will:

1. Receive, safeguard, deposit, disburse, invest and account for all monies in the Fund in accordance with the direction of the Advisory Committee and applicable guidelines and statutes;
2. Secure a bond, to be paid for from assets of the Fund, if required by the Court;
3. Establish an accounting system for the Fund and maintain proper records and receipts of all Fund activity;
4. Prepare and submit to the Advisory Committee a quarterly report of Fund activity, specifying the balance, receipts, disbursements, investments, estimated earnings, and any other information that the Advisory Committee may require;

5. Attest to the financial status of the Fund by signing financial statements and reports, thereby certifying the accuracy of said statements;
6. Perform such other functions as the Advisory Committee may direct.

C. Successor Custodian

Upon appointment by the Advisory Committee of a Successor Custodian, the Advisory Committee will designate or retain a disinterested party to conduct an exit audit. The results of this audit shall be reported to the Advisory Committee by the auditor in a report which includes:

1. A statement of assets and liabilities of the Fund;
2. A statement of operations or of receipts and disbursements covering the period since the preceding statement of operations and net worth, up to the date of transfer of responsibility to the Successor Custodian;
3. A statement of the balance in any Fund accounts and investments as of the date of transfer of responsibility to the Successor Custodian.

The Successor Custodian shall execute a receipt for all funds after being satisfied as to the accuracy and completeness of the statements and records provided by the auditor. Acceptance may be conditioned upon audit and verification by a disinterested person, when the circumstances so warrant.

## **II. Financial Guidelines**

### **A. Receipt of Funds**

Each divisional office within the Northern District of Texas will collect a fee for each attorney admission and pro hac vice admission in the amount prescribed by the Judicial Conference, plus a \$25.00 district fee. On receipt of the fee, the financial deputy in each division will issue a receipt and place the General Fund portion of the admission fee in Fund 085000, the Judiciary Fund portion of the admission fee in Fund 510000, and the Non-Appropriated Fund portion of the admission fee in Fund 6855XX. All Non-Appropriated Fund monies will be deposited into an account segregated from all other monies in the custody of the Court.

### **B. Establishment of Checking Account**

An account shall be established in the name of the Fund with the Custodian as Trustee. All accounts will be established at federally insured banks or savings institutions.

The check issued each month by the Dallas financial officer to the Custodian shall be deposited to the checking account for the Fund. The balance shall be maintained at the minimum required to avoid bank service fees.

C. Investment of Funds

Any amount on deposit at the end of the month which exceeds the established maximum checking balance shall be disbursed by the Custodian by check and deposited into an interest-bearing account, government security, or money market fund invested in government obligations to the credit of the Custodian as Trustee for the Fund.

The Custodian shall submit recommendations as to the investment of the funds to the Advisory Committee for its approval. The Advisory Committee shall inform the Custodian how the funds are to be invested.

The Custodian shall apprise the Advisory Committee of each reinvestment of the funds.

D. Disbursements

All requests for expenditure of Non-Appropriated Funds shall be submitted to the Custodian in writing. The Custodian will forward the request to the Chairperson of the Advisory Committee. The Custodian will make any approved disbursements in accordance with the decision and instructions of the Advisory Committee.

The Custodian is authorized to make individual disbursements, without prior approval, of up to \$100, provided the expenditure clearly belongs to one of the categories on the approved list of appropriate uses for the Fund and is duly reported to the Advisory Committee at the next meeting of said Committee.

No countersignature shall be required for expenditure of funds.

E. Audits

The Advisory Committee may appoint or retain a disinterested party or an auditor to conduct an annual audit as well as those audits required by this plan, i.e. upon the appointment of a Successor Trustee and upon the dissolution of the Fund.

The results of any audit shall be provided to the Advisory Committee. Compensation may be provided to the auditor or inspector from Fund assets if said auditor or inspector is not a government employee acting in an official capacity.

F. Dissolution of Fund

Courts may dissolve these non-appropriated funds which they have created; in addition, the Advisory Committee may recommend to the Court that the Fund be dissolved. In the event the Fund is ordered dissolved:

1. The Custodian shall ensure that all outstanding obligations are liquidated prior to dissolution, including expenses associated with the final required audit;
2. A terminal audit shall be conducted by a disinterested person appointed by the Court;
3. The auditor shall file with the Court the results of the terminal audit of the Fund.

### **III. Guidelines for Disbursement of Funds**

Monies derived from Attorney Admission fees and accumulated within the Non-Appropriated Fund are to be used for the joint benefit of the bench and the bar in the administration of justice. Non-Appropriated Funds may not be used to supplement appropriated funds or to pay for materials or services available from statutory appropriations.

Approved uses of the Non-Appropriated Fund include, but are not limited to, the following:

1. purchase of periodicals, publications, and library material of mutual access and benefit to the bench and bar;
2. establishment and maintenance of attorney admission and disciplinary programs;
3. enforcement and implementation of the local rules;

4. enhancement of juror comfort and convenience;
5. establishment and maintenance of attorney lounge facilities;
6. acquisition of a surety bond for the Custodian of the fund, in an amount covering only those monies in the Fund;
7. payment of fees for services associated with auditing the Fund;
8. purchase of charts, stands, equipment, and materials to assist attorneys in the courtroom;
9. support of the annual law clerk orientation;
10. payment of expenses for printing court rules, manuals on practice and procedures, or other documents related to court operations;
11. payment of expenses in connection with court memorial and commendation services or events;
12. funding of court projects, programs, or acquisitions which interest or benefit the bar or which enhance the quality of advocacy in the court;
13. funding of the collection and preservations of court records of historical value;




14. payment of expenses for representation of indigents in cases where compensation is not otherwise available;
15. funding of projects designed to educate or train court personnel on matters which enhance their understanding of judicial history and procedure or their abilities to serve the public and the bar; and
16. establishment of a Judicial Portrait fund.

#### IV. Reimbursement of Attorney Expenses in Civil Cases

The Plan for Reimbursement of Attorney Expenses in Civil Cases attached to this Order is hereby adopted. It supersedes all prior Plans for Reimbursement of Attorney Expenses in Civil Cases and applies to all cases hereafter commenced and, insofar as just and practicable, to all cases now pending.

SO ORDERED this 8 day of March, 2006.

  
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A. JOE FISH, CHIEF JUDGE  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

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**PLAN FOR REIMBURSEMENT OF  
ATTORNEY FEES AND EXPENSES IN CIVIL CASES**

**I. Overview of the Program**

It is the policy of this Court to encourage members of the bar to represent parties who cannot afford counsel. To further this policy, the Court adopts this Plan for Reimbursement of Attorney Fees and Expenses in Civil Cases (“Plan”) and the attached Appointment of Pro Bono Counsel form (“PBP 20”) for use in appointing counsel under this Plan.

When an attorney has been appointed to represent an indigent party in a civil matter, that attorney will be allowed to petition the Court for fees and reimbursement of certain expenses. Fees and expenses must be incurred in the preparation and presentation of the case. The maximum amount that may be reimbursed for all expenses in a case is \$3,500, and the maximum amount that may be paid for all fees in a case is \$1,000. The Non-Appropriated Fund Committee has the authority to grant exceptions to the maximums established for fees and expenses. Funding for this program comes from this Court’s Non-Appropriated Fund.

**II. Restrictions**

1. Any fees and expenses that are either waived or recoverable under the provisions of Title 18, U.S.C. or Title 28, U.S.C. or that have been recovered under any other plan of reimbursement may not be reimbursed from the Non-Appropriated Fund.
2. An attorney appointed to a case under this Plan who has been awarded fees and/or expenses in the case is not eligible for fees and/or reimbursement of expenses from the Non-Appropriated Fund.

3. Only those fees and expenses associated with the preparation or presentation of a civil action in the United States District Court for the Northern District of Texas may be approved for payment. No fees or expenses associated with the preparation or presentation of an appeal to the U.S. Court of Appeals or the U.S. Supreme Court will be reimbursed from the Non-Appropriated Fund.

### **III. Procedure for Requesting Fees and/or Expenses**

All requests for fees and/or reimbursement of expenses in civil cases must be filed within thirty days of the entry of judgment. No interim payments will be made.

The appointed attorney must file with the Clerk's Office a request for fees and/or reimbursement of expenses on a PBP 20 form that has been approved and signed by the presiding judge. The form must be accompanied by an itemized statement and receipts to substantiate the request. The clerk will forward the PBP 20 form and attachments to the Non-Appropriated Fund Committee Chairperson for final approval.

If an appointed attorney has withdrawn or has been dismissed prior to the entry of judgment, that attorney must file a request for fees and/or expenses within thirty days of withdrawal or dismissal. Any work product or services for which reimbursement is requested from the Non-Appropriated Fund must subsequently be provided to newly-appointed counsel or, if no new counsel is appointed, to the party.

### **IV. Allowable Expenses**

Appointed attorneys may request reimbursement under this Plan for the following expenses:

1. Depositions and Transcripts

Appointed counsel may order transcripts or depositions necessary in the preparation of the case. The cost of such transcripts may not exceed the page rate for ordinary copy established in the Northern District of Texas. Only the cost of one original of any transcript will be allowed; the cost of additional copies will

not be reimbursed. In the interest of efficiency and cost-effectiveness, appointed attorneys are encouraged to use audio tapes for depositions. If audio tape depositions are used, transcription of the depositions may be reimbursed at the ordinary page rate established in the Northern District of Texas.

2. Investigative or Expert Services

Counsel may request investigative or expert services necessary for the adequate preparation of a matter. Such services must have prior court approval by the judge to whom the case is assigned to be approved for reimbursement.

Approval for investigative or expert services is not automatic. Therefore, attorneys should be prepared to explain why the services are necessary.

3. Travel Expenses

Travel by privately-owned car for trips in excess of thirty miles (each way) may be claimed at the current mileage rate authorized for federal employees. In addition, out-of-pocket expenses for parking may also be reimbursed.

4. Fees for Service of Process

Fees for service of papers and the appearance of witnesses not otherwise voided, waived or recovered may be reimbursed.

5. Interpreter Services

Costs of interpreter services not otherwise voided, waived, or recoverable may be reimbursed.

6. Photocopying, Telephone Calls, etc.

Actual expenses incurred for such items as photocopying, photographs used in the case, toll calls, and the like may be reimbursed. Such expenses must be unavoidable in preparation of the case.

#### **IV. Non-Allowable Expenses**

The following expenses will not be reimbursed under this Plan:

1. General office expenses, including office overhead, payroll costs, equipment depreciation, basic telephone service, and the like will not be reimbursable under this Plan.
2. Any expense not properly documented with receipts or other proof may be disallowed by the judge or the Non-Appropriated Fund Committee.
3. Expenses that may be statutorily recovered or costs or fees taxed against a party or appointed counsel will not be reimbursed by this Plan.

1. CASE NO.	2. PERSON REPRESENTED	
3. ATTORNEY'S NAME, First Name, M.I., Last Name, including any suffix, and MAILING ADDRESS <i>(List all attorneys if more than one is appointed.)</i>  Telephone Number: _____  E-mail Address: _____	4. COURT ORDER APPOINTING COUNSEL Because the above-named person represented has satisfied this Court that he or she is financially unable to employ counsel and that (1) exceptional circumstances justify the appointment of counsel, or (2) he or she has diligently attempted to obtain counsel and the merits of the case justify appointment, the attorney (or attorneys, if more than one is appointed) whose name appears in item 3 is appointed to represent the person in this case.  _____ Signature of Presiding Judge  _____ Date of Order	
<b>CLAIM FOR FEES AND EXPENSES</b>		
DATE OF CASE COMPLETION	APPOINTMENT TERMINATION DATE <i>(Only if different from Case Completion Date)</i>	
<b>CATEGORIES</b> <i>(An itemized statement and receipts must be attached.)</i>	<b>AMOUNT</b>	
Fees <i>(Fees must not exceed \$1,000 per case.)</i>	\$ _____	
Depositions and Transcripts	\$ _____	
Investigative or Expert Services <i>(Prior court approval is required. State the date approval was given: _____)</i>	\$ _____	
Travel Expenses	\$ _____	
Fees for Service of Process	\$ _____	
Interpreter Services	\$ _____	
Photocopying, Telephone Calls, Other	\$ _____	
<b>TOTAL AMOUNT CLAIMED:</b>	<b>\$ _____</b>	
I certify that the above fees and expenses were incurred in the preparation and presentation of this case. These fees and expenses do not include any fees or expenses, either waived or recoverable, under any provisions of law or under any other plan. Additionally, no fees and/or expenses were awarded under a judgment in a suit before this Court.  Signature of Attorney(s) _____ Date _____		
<b>APPROVED FOR PAYMENT - COURT USE ONLY</b>		
SIGNATURE OF PRESIDING JUDGE	DATE	TOTAL AMOUNT APPROVED
SIGNATURE OF CHAIRPERSON, NON-APPROPRIATED FUND COMMITTEE	DATE	TOTAL AMOUNT APPROVED