

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA**

**In the matter of:
PLAN FOR BAR ADMISSION FEES**

CASE NO. 8:16-mc-88-T-23

**EIGHTH AMENDED AND RESTATED
GUIDELINES AND PLAN FOR ADMINISTRATION OF
NON-APPROPRIATED FUNDS**

I. GENERAL

Attorneys admitted to practice in the Middle District of Florida under the conditions prescribed in Rule 2.01 of the Rules of Practice of the United States District Court for the Middle District of Florida are required to pay to the Clerk an initial admission fee of \$15.00 in addition to the attorney admission fee set by the Judicial Conference of the United States, and a renewal fee of \$15.00 payable every fifth year. Attorneys admitted to practice under Local Rule 2.02 or Local Bankruptcy Rule 2.090-1(c)(1) shall pay a pro hac vice fee as promulgated in the Court's Schedule of Fees. The attorney admission fee set by the Judicial Conference of the United States will be deposited in the Treasury of the United States as required by 28 U.S.C. § 751(e), and the remainder of any initial fee, all renewals, and all pro hac vice fees will be deposited in a local bank account in the name of the Middle District of Florida Non-Appropriated Fund (the "Bench Bar Fund") to be administered as provided herein.

II. POLICIES, RESPONSIBILITIES, AND PROCEDURES

A. Funds derived from attorney admissions fees that are in excess of those required to be deposited in the Treasury of the United States are non-appropriated funds and are not the property of the United States.

B. The Clerk of the United States District Court for the Middle District of Florida is designated as Custodian of the Bench Bar Fund.

C. The Custodian shall cause the Bench Bar Fund to be audited on at least a biennial basis, and at such other times as deemed necessary or as directed by the Bench Bar Fund Committee or the Court, and will provide an annual report to the Court on the status, balance, and utilization of the fund.

D. The Custodian will be responsible for the following:

- (1) Receiving, safeguarding, depositing, distributing, and accounting for all funds in accordance with this Plan or as directed by the Bench Bar Fund Committee. All disbursements shall require the signature of the Custodian or one member of the Bench Bar Fund Committee who has been authorized by the Board of Judges to sign checks, and for expenses in excess of \$ 1,000, the signature of the Custodian and one Committee member authorized to sign checks or the signatures of two Committee members authorized to sign checks.
- (2) Establishing a checking and deposit account in a local bank.

- (3) Establishing and maintaining an accounting system that provides the records necessary for audit trail and recordation of all funds and disbursements.
- (4) Preparing periodic financial statements and operating reports as required, and certifying that the statements and reports accurately reflect the financial condition of the fund.
- (5) Upon recommendation and advice of the Bench Bar Fund Committee, investing funds in excess of immediate needs in appropriate interest bearing accounts.

III. RESPONSIBILITIES UPON APPOINTMENT OF A SUCCESSOR

A. When a successor Custodian is appointed, the outgoing Custodian will prepare and sign the following statements in conjunction with an exit audit conducted by an auditor or disinterested person designated by the Bench Bar Fund Committee:

- (1) A statement of assets and liabilities.
- (2) A statement of operation or of receipts and disbursements since the period covered by the last statement of operation prepared by the Court.
- (3) A statement of the balance in any fund account as of the date of transfer to the successor Custodian.

B. The successor Custodian will execute a receipt for all funds after being satisfied as to the accuracy of the statements and records provided by the outgoing Custodian.

IV. BENCHBAR FUND COMMITTEE

A. A Bench Bar Fund Committee, to be appointed by the Chief Judge, is established for the purpose of advising the Court and the Custodian on matters of policy in the administration of the fund and approval of expenditures therefrom. The Committee will be composed as follows:

- One District Judge from each division of the Court where there is a resident active District Judge (one of whom shall serve as chair)
- Two Magistrate Judges
- Two Bankruptcy Judges
- Six Attorney Members of the Middle District Bar

The Judge members of the Committee will be appointed by and serve at the pleasure of the Chief Judge. Beginning January 1, 2008, the Chief Judge will select six attorney members to serve on the Committee, three of whom will serve one-year terms and three of whom will serve two-year terms. At the expiration of the term of those attorney members serving one year, the Chief Judge will appoint three members to serve two-year terms. Thereafter, attorney members will be appointed to serve two-year terms. Five of the six attorney members shall reside in separate Divisions of the Court so that each of the five Divisions of the Court is represented

by an attorney member. The sixth attorney is an “at large” member and may reside in any Division of the Court.

B. The Bench Bar Fund is subject to audits by the Administrative Office of the United States Courts if requested or authorized by the United States District Court for the Middle District of Florida or the Eleventh Circuit Council Executive Committee. The Court may appoint an outside auditor to conduct such audits as the Court determines necessary or appropriate.

C. All receipts should be deposited only in federally insured banks (FDIC), and whenever practical or feasible all substantial sums should be placed in interest-bearing accounts, government securities, or money-market funds invested in government obligations. Efforts will be made to maximize the return on instruments consistent with the requirements of convenience and safety and with the approval of the Bench Bar Fund Committee.

D. Attorney admission fees collected by the Clerk that are in excess of the amount prescribed by the Judicial Conference and deposited to the Treasury of the United States constitute non-appropriated funds and shall not be used for purposes which do not inure to the benefit of the members of the Bench or Bar in the administration of justice.

E. Non-appropriated funds from attorney admissions fees described in this Amended and Restated Plan for Bar Admission Fees shall not be used to pay, or to supplement payment, for any goods, materials, salaries, expenses, services, or

events for which funds provided by Congress to the Judiciary are authorized to be used.

F. Examples of categories of proper common uses of attorney admission funds are listed below. More specific examples and guidelines for use of funds can be found in the Bench Bar Fund Committee's First Amended Parameters for use of Bench Bar Funds.

- (1) Attorney admission proceedings, including expenses of admission committees and admission ceremonies.
- (2) Attorney discipline proceedings, including but not limited to:
 - a. Expenses of investigating counsel for disciplinary enforcement;
 - b. Stenographers;
 - c. Meeting room rentals;
 - d. Postage;
 - e. Travel expenses; and
 - f. Fees of witnesses.
- (3) Furnishings, equipment, and amenities for lawyer lounges that may not be purchased or funded from appropriations. Examples:
 - a. Furniture;
 - b. Computers, printers, photocopiers, and fax machines;
 - c. Beverage supplies or service;

- d. Microwave, refrigerator, and other appliances; and
 - e. Television, telephone, and internet service.
- (4) Surety bond for the custodian of the fund. (The bond may only cover monies in the fund.)
 - (5) Fees for services rendered by outside auditors or accountants in auditing the fund.
 - (6) Reimbursement of appointed pro bono counsel for out-of-pocket expenses as authorized by the court's Plan for Pro Bono Representation by Appointment in Civil Cases.
 - (7) Reimbursement of out-of-pocket expenses of counsel appointed on a pro bono basis by the Bankruptcy Court as authorized by a properly adopted Plan for Reimbursement of Costs in Bankruptcy Cases that includes a procedure for approval of expenses.
 - (8) In civil and bankruptcy cases, expenses of court ordered mediation for a pro se party regardless of whether the party has been granted *in forma pauperis* status, if in the view of the assigned judge such expenditure is warranted.
 - (9) Donations to organizations that provide legal representation, advice, or assistance to unrepresented litigants in federal civil matters, including representation for settlement conferences or other alternative dispute

resolution activities, provided that such organizations use the donation for no other purpose.

- (10) Reimbursement by district courts to jurors for lost or damaged personal property incident to their jury service, when compensation is not available under a statute such as the Federal Tort Claims Act.
- (11) Hospitality items (e.g. food, beverages, mementos) for which appropriated funds may not be used.
- (12) 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 Federal 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 United States Judges and Judicial Employees.
- (13) Expenses and reasonable fees of guardians ad litem appointed by the court to represent minors and other incompetent parties in proceedings before the court.
- (14) Periodicals, publications, and online resources for court library for which appropriated funds are not available.
- (15) Anatomical charts and stands for courtroom use.

- (16) Expenses for the training of court personnel for which appropriated funds are not available, including attendance at conferences or seminars.
- (17) Court related projects for which no appropriation is available (such as historical matters or exhibits).
- (18) Portraits (or photographs), including framing.
- (19) Expenses for programs and materials regarding legal education and/or donations to organizations to prepare and/or present such programs or materials.
- (20) Events which are incident to an official function of the Court, such as investitures, portrait ceremony receptions, receptions upon the opening of a courthouse, receptions in connection with courthouse visits by legislative leaders, receptions for judicial delegations from other jurisdictions or countries, and food and beverage service provided in support of educational outreach programs.
- (21) Court awards, including recognition of achievement or completion of Re-entry Court goals.
- (22) Costs, including the purchase of equipment, associated with photographing and recording court events and court history.
- (23) Jury research projects.
- (24) Any other purpose for which appropriated funds may not legally be used that will benefit the bench and the bar in the administration of justice.

For limitations, see: Guide to Judiciary Policy, Volume 4, Chapter 6, § 670.30.

V. EXPENDITURE OF FUNDS

A. All requests for funding must be in writing, on forms approved by the Committee.

B. **Recurring Expenses:** Prior to the end of each fiscal year, the Committee shall prepare a budget for submission to the Board of Judges for approval of anticipated revenues and expenses during the forthcoming fiscal year. Once approved by the Board of Judges, the custodian shall have authorization to expend funds for such recurring-type expenses within the limits of the budget approved by the Board of Judges.

C. **Non-recurring Expenses/Special Projects:** With the exception of payments authorized pursuant to the court's Plan for Pro Bono Representation by Appointment in Civil Cases, all expenditures not covered by the annual budget must be approved as follows:

- (1) The Custodian or the Committee Chair shall have authorization to approve individual expenditures, not to exceed \$1,000 per item;
- (2) The Committee, at a duly noticed meeting or via an e-mail ballot, shall have the authority to approve expenditures up to \$10,000;
- (3) All expenditures in excess of \$10,000 must be approved by the Board of Judges upon recommendation of the Committee.

D. Payments authorized by the Plan for Pro Bono Representation by Appointment in Civil Cases:

- (1) The presiding judge may approve single or total expenses up to \$5,000;
- (2) The presiding judge and the Bench Bar Fund Committee must approve single or total expenses exceeding \$5,000 but less than \$10,000;
- (3) The presiding judge, the Bench Bar Fund Committee, and the Board of Judges must approve single or total expenses exceeding \$10,000.

VI. DISSOLUTION OF THE FUND

In the event of dissolution of the Bench Bar Fund, all outstanding obligations must first be paid, including any expenses resulting from the required final audit. Any remaining assets shall be disposed of in ways that fulfill the purpose of the fund or returned pro-rata to the then existing attorney members of the Middle District Bar.

VII. EFFECTIVE DATE, RENEWALS, AND DELINQUENCY

A. This plan originally became effective June 1, 2004, and applies to all applications for membership or special admissions filed thereafter.

B. All persons admitted to the Bar of this Court prior to January 1, 2004, were required to renew their membership and pay a renewal fee by July 30, 2004, and by the last business day in June each year thereafter. Persons admitted on or after January 1, 2004, were required to renew their membership by June 30, 2005,

and by the last business day in June of each succeeding year, provided, however persons admitted during the first six months of any given year were not required to renew their membership until June of the succeeding year.

C. By amendment adopted by the Board of Judges on June 30, 2016, a renewal fee in the amount of \$15.00 shall cover a five-year period and is payable every fifth year, commencing June 1, 2017; provided however, persons admitted after March 1st of the renewal year shall not be required to renew their membership until the next five-year renewal cycle.

D. Any member of the Bar of this Court who has failed to renew his/her membership as required herein by the last business day in August shall be considered delinquent and subject to removal from the membership of the Bar of this Court.

E. Upon payment of the \$15.00 renewal fee and a \$50.00 late charge, the grace period provided in paragraph VII.D. above will be extended until the last business day in September of the renewal year. Any member of the Bar of this Court who fails to meet this deadline will be removed from the membership of the Bar of this Court and will be required to reapply for admission to the Middle District of Florida Bar and pay the current fee for attorney admission.

F. By majority vote, the Board of Judges may suspend or delay collection of the applicable renewal fee.

G. Applications for membership, special admission, and renewal shall be made in the manner directed by the Clerk. Payment of membership and special

admission shall be made in accordance with the current directive of the Clerk.
Payment for renewal shall be made by accessing the Court's Internet site and submitting payment via pay.gov.

This Eighth Amended and Restated Guidelines and Plan for Administration of Non-Appropriated Funds was approved by the Board of Judges at a duly authorized meeting on the 30th day of June, 2016.

ORDERED, in Tampa, Florida on behalf of the court on July 18, 2016.



STEVEN D. MERRYDAY
CHIEF UNITED STATES DISTRICT JUDGE