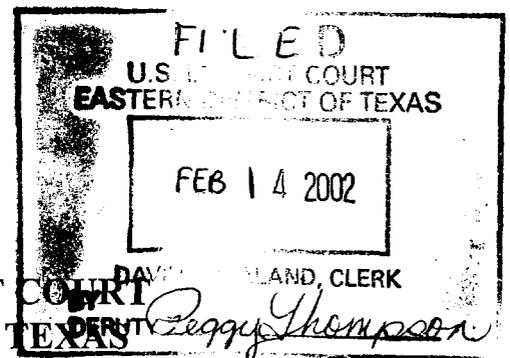


GENERAL ORDER NO. 02-2



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

GENERAL ORDER AMENDING APPENDIX I TO THE LOCAL RULES

It is hereby ORDERED that the following amendments to Appendix I of the local rules, having been approved by the judges of this court, are adopted for immediate implementation:¹

APPENDIX I:

**PLAN FOR THE REIMBURSEMENT OF ATTORNEY'S FEES AND EXPENSES
IN ~~CIVIL~~ NON-CRIMINAL JUSTICE ACT ("CJA") CASES**

I. Overview of the Plan

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's Fees and Expenses in Civil Non-Criminal Justice Act ("CJA") Cases ("Plan").

When an attorney has been appointed to represent an indigent party in a civil or criminal matter that is not governed by the CJA, that attorney will be allowed to petition the court for reimbursement of certain attorneys' fees and expenses. Attorneys' fees and expenses, as defined in this policy statement Plan, (1) must be incurred in the preparation and presentation of the case and (2) shall be reimbursed using forms, procedures and instructions developed by the clerk's office that conform to the forms, procedures and instructions governing fee and expense reimbursement under the CJA. The total amount that

¹New language appears as underlined text; deleted language appears as ~~strikeout~~ text.

may be reimbursed for ~~all~~ fees and expenses per party per case under the Plan shall not exceed ~~\$500~~ \$2,500, unless a greater amount is approved by both the chief judge and the presiding judge. Funding for this ~~program~~ Plan shall be obtained from this court's non-appropriated fund.

II. Restrictions

1. Any attorneys' fees and costs that are either waived or recoverable under the provisions of Title 18, U.S.C. or Title 28, U.S.C. or which have been recovered under any other plan of reimbursement shall not be reimbursed from the non-appropriated fund.
2. In no case shall an appointed attorney for a party who has been awarded costs and/or fees pursuant to a judgment in a suit before this court be eligible for reimbursement of costs and/or fees from the non-appropriated fund.
3. Only those attorneys' fees and costs associated with the preparation or presentation of a civil or criminal action that is not governed by the CJA in the United States District Court for the Eastern District of Texas shall be approved for reimbursement. No attorneys' fees and costs associated with the preparation or presentation of an appeal to the United States Court of Appeals or the United States Supreme Court shall be reimbursed from the non-appropriated fund.

III. Procedure for Requesting Reimbursement

All requests for reimbursement of attorneys' fees and expenses in civil cases pursuant

to this Plan must be filed within ~~thirty (30)~~ forty-five (45) days of the entry of judgment or completion of the matter as determined by the appointing judge. No interim payments shall be made.

The appointed attorney shall file with the clerk a request for reimbursement of fees and expenses. This request shall be filed using ~~the attached form~~ worksheets and forms which will be made available from the clerk's office. The clerk will forward any request for reimbursement initially to the judge to whom the case was assigned. Upon approval of the judge, the clerk, as custodian of the non-appropriated fund, will arrange for payment of the appointed attorney.

If an appointed attorney has withdrawn or has been dismissed prior to the entry of judgment, that attorney shall file a request for reimbursement within thirty (30) days of withdrawal or dismissal. Any work product or services for which reimbursement is requested from the non-appropriated fund shall subsequently be provided to newly-appointed counsel or if no new counsel is appointed, to the party.

IV. Allowable and Non-Allowable Attorneys' Fees and Expenses

~~1. Depositions and Transcripts. Appointed counsel may order transcripts or depositions necessary in the preparation of the case. The cost of such transcripts shall not exceed the page rate for ordinary copy established in the Eastern District of Texas. Only the cost of one original of any transcript shall be allowed; the cost of additional copies shall 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 Eastern 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 by the non-appropriated fund.~~
- ~~3. Travel Expenses. Travel by privately owned car 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 out-of-pocket expenses incurred for such items as photocopying, photographs used in the case, toll calls, and the like may be reimbursed. Such expenses must be incurred out of the attorney's normal office and must be unavoidable in preparation of the case.~~

~~V. Non-Allowable Expenses~~

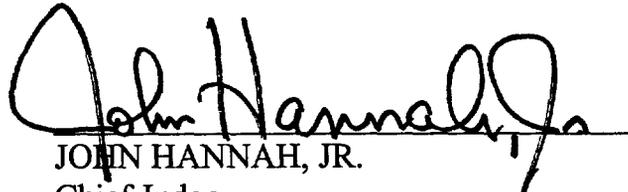
- ~~1. General office expenses, including office overhead, payroll costs, equipment, depreciation, basic telephone service, and the like shall not be reimbursable under this Plan.~~

1. Allowable and non-allowable attorneys' fees and expenses under this Plan are the same as the current allowable and non-allowable fees and expenses under the CJA, unless otherwise noted in this Plan. Likewise, the payment rates and procedures for reimbursement of expenses and fees in this Plan are the same as the current payment rates and procedures governing the CJA, unless otherwise noted in this Plan.
2. Any expense not properly documented with receipts or other proof may be disallowed by the district or magistrate judge assigned to the case or the non-appropriated fund custodian.
3. Expenses that may be statutorily recovered or costs or fees taxed against a party or appointed counsel shall not be reimbursed by this Plan.

Signed this 14th day of February, 2002.

FOR THE COURT:

By:


JOHN HANNAH, JR.
Chief Judge