



APPENDIX A

GUIDELINES GOVERNING REIMBURSEMENT OF EXPENSES IN PRO BONO CASES

October 2018

Revised March 2021

I. Eligibility for Reimbursement

Pro bono counsel may petition the court for reimbursement of certain expenses incurred in the preparation and presentation of the case, subject to these guidelines. For purposes of the Plan for the Administration of the Bench Bar Fund, *pro bono* counsel means an attorney appointed by a judge of this court to represent an indigent party in a civil case, an attorney who files a notice of appearance on behalf of an indigent pro se civil litigant at the request of the court, or an attorney working for Legal Aid and representing a party in a civil case who qualifies for Legal Aid services. Normally, the maximum reimbursement shall be \$2,500 per case. *Pro bono* case related expenditures over \$2,500 must be approved by the presiding judge and the Advisory Committee.

II. Restrictions on Eligibility

- A. Any costs that are either waived or recoverable under the provisions of Title 18, U.S. Code or Title 28, U.S. Code or which have been otherwise recovered, shall not be reimbursed pursuant to these guidelines.
- B. Costs and/or fees awarded in favor of the indigent party represented by appointed counsel and against another party pursuant to a judgment or other order of the court shall not be eligible for reimbursement pursuant to these guidelines.
- C. Unless otherwise specifically approved by the court, only those costs associated with the preparation or presentation of a civil action in the United States District Court for the Western District of Virginia shall be approved for reimbursement. No 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 pursuant to these guidelines.
- D. Any costs or fees taxed against the represented party or appointed counsel as a result of a court ruling or as part of a judgment obtained by an adverse party in a civil action before this court shall not be eligible for reimbursement pursuant to these guidelines.

III. Procedures for Requesting Reimbursement

- A. Within thirty (30) days of the entry of a judgment or order of dismissal, the appointed attorney must apply for reimbursement of expenses by submitting to the Clerk's Office the "Request for Reimbursement of *Pro Bono* Attorney Expenses in Civil Cases." The request must be accompanied with sufficient supporting documentation to permit determination that the request is appropriate and reasonable and that the amounts for expenses have actually been paid out. For good cause shown, an attorney may petition the court for an interim reimbursement. After review, the Clerk's Office will forward the request to the presiding judge for approval.

- B. Upon receipt of the approval of payment of expenses by the presiding judge, the Custodian of the VAWD Bench and Bar Fund shall promptly issue the required check in the amount(s) indicated on the voucher.
- C. In the event an appointed attorney has withdrawn or has been dismissed prior to the entry of judgment or order of dismissal, that attorney may file a request within thirty (30) days of such withdrawal or dismissal for allowable expenses incurred prior to the withdrawal or dismissal. The court may condition reimbursement on a showing that attorney work product or discovery materials useful to the continued prosecution of the represented party's case have been provided to the successor counselor, where there is no successor counsel, to the represented party. Except for good cause shown, the Court will not allow reimbursement of fees or expenses where the request was filed more than thirty (30) days after the entry of the order of withdrawal.
- D. If, after a reimbursement is approved and paid pursuant to these guidelines, the appointed attorney subsequently receives from another source an amount on account of the reimbursed expenses, counsel shall, within thirty (30) days from said recovery, return to the court the amount of the prior reimbursement equal to the amount received from the other source.
- E. Amounts reimbursed must be repaid, in whole or in part, if the case is settled with the payment of money, if fees and costs are awarded under 42 U.S.C. §1988 or any other fee-shifting statute, or if the party is awarded monetary damages. The amount of the reimbursement shall be determined by the presiding judicial officer.

IV. Reimbursable Expenses

Subject to judicial review and approval, the following out-of-pocket expenses may be reimbursed:

- A. Depositions and Transcripts. Court reporter attendance fees for depositions of essential witnesses and transcription fees for such depositions, the cost of which shall not exceed the regular copy rate as established by the Judicial Conference of the United States and in effect at the time any transcript or deposition was filed.
- B. Investigative, Expert or Other Services. The cost of investigative or expert services which are necessary to the preparation of the case if approved in advance by the presiding judge.
- C. Mileage and Travel Expenses. Mileage at the current rate authorized for federal employees as well as out-of-pocket expenses for other travel expenses (parking, tolls and similar costs).
- D. Service/Witness Fees. Fees for service of papers and the appearance of lay witnesses at depositions and their mileage fees.

- E. Interpreter Services. The cost of interpreter services if approved in advance by the judicial officer to whom the case is assigned.
- F. Expert Fees. The cost of expert fees if approved in advance by the judicial officer to whom the case is assigned.
- G. Photocopies, Photographs, Printing, Long Distance Telephone Calls, etc. Reasonable out-of-pocket expenses incurred for items such as photocopies, photographs, printing, long distance telephone calls, express and overnight delivery services.
- H. Other Expenses. Additional expenses may be approved by the presiding judge. However, no such additional expenses shall be eligible for reimbursement unless, prior to the expenses being incurred, the attorney shall have obtained the written approval of the presiding judge. Such approval may be obtained by means of an *ex parte* request for approval, which shall not be docketed on the official docket of the case, and must contain a detailed description of the expenses requested.

V. **Restrictions on Reimbursement**

- A. General office overhead, including paralegal fees, is not reimbursable pursuant to these guidelines.
- B. The presiding judge may disallow any expense that is not properly documented.
- C. The presiding judge may disallow any reimbursement if it is determined that the appointed attorney did not pursue reasonable courses of recovery of expenses, including seeking statutorily permitted costs and fees, prior to application for reimbursement pursuant to these guidelines.

SCHEDULE OF REVISIONS

Date	Section Number and Title
March 29, 2021	Section I. Eligibility for Reimbursement
March 29, 2021	Section IV. B. Reimbursable Expenses