

FILED
Nov 08, 2013
CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**


IN RE:)
)
ADOPTION OF AMENDED PLAN FOR)
THE ADMINISTRATION OF THE)
NON-APPROPRIATED FUND)
_____)

GENERAL ORDER NO. 539

On November 6, 2013, the Judges of the Eastern District of California approved an amendment to the attached Plan for the Administration of the Non-Appropriated Fund, adding a provision for Court Security Officer (CSO) Overtime Pay for Unofficial Court Functions. The plan, as amended, supersedes General Order 521.

IT IS HEREBY ORDERED that the Plan for the Administration of the Non-Appropriated Fund, as amended, is adopted and becomes effective this date.

Date: November 08, 2013



MORRISON C. ENGLAND, JR., CHIEF JUDGE
UNITED STATES DISTRICT COURT



UNITED STATES DISTRICT COURT

Eastern District of California

**Plan for the
Administration of the Non-Appropriated Fund**

**Adopted by the Court on November 2, 2011
Amended by the Court November 8, 2013**

MORISSON C. ENGLAND, JR.

CHIEF JUDGE

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CHAPTER ONE

General Matters

Section 1.01 Purpose

The United States District Court has adopted this Attorney Admissions Fund Plan (the Plan) for the Eastern District of California. The purpose of the Plan is to provide guidance for receipting, depositing, disbursing, and accounting for monies maintained in the Court's Non-Appropriated Fund (the Fund). This Plan supersedes the plans adopted in General Orders 154, 259 and 377.

Section 1.02 Sources of Revenue

- (a) **Excess Attorney Admissions Fees:** Pursuant to Local Rule 180, attorneys applying for admission to this Court will be required to pay a prescribed fee, in excess of the basic fee set by the Judicial Conference of the United States. This excess amount will be collected, deposited, and maintained by the Fund custodian as part of the Fund.
- (b) **Pro Hac Vice Fees:** Pursuant to Local Rule 180, attorneys applying for Pro Hac Vice admission to this Court will be required to pay a prescribed fee. This amount will be collected, deposited, and maintained by the Fund custodian as part of the Fund.
- (c) **Other Sources of Income:** The only other source of income for the Fund is any interest income accrued on the Attorney Admission fees.

Section 1.03 Constraints on the Use of Attorney Admission Fund Monies

The following guidelines and principles apply to the administration of the Fund:

- (a) **Receipt and Deposit of Monies:** The Clerk of Court will receipt, deposit, and account for monies according to fiscal and accounting principles established in the most current version of the Attorney Admission Fund Guidelines (the Guidelines) adopted by the Judicial

Conference of the United States (*see* Vol. 13, Chap. 12 of the *Guide to Judiciary Policies*, hereinafter referred to as the *Guide*).

(b) **Limitations on Deposits:**

- (1) The Clerk of Court shall deposit all monies of the Fund only in federally insured banks or savings institutions. Whenever practical and feasible, all substantial sums should be deposited in interest-bearing accounts, government securities, or money market funds invested in government obligations, at the direction of the Court or the Judicial Advisory Committee (JAC).
- (2) The Court shall avoid an unreasonable accumulation of attorney admission fees.

(c) **Separation of Fund Receipts from Other Judiciary Accounts:**

Attorney admission funds shall be segregated from all other monies held in the custody of the Court

(d) **Authorized Expenditures:**

Expenditures from the Fund are to be used for the benefit of the bench and bar in the administration of justice. After considering the recommendations of the JAC or other judges, the Chief District Judge must enter an order authorizing all expenditures, except as provided in Section 2.02 “Pro Bono Expenses.”

(e) **Limitations on Expenditures:**

- (1) The Fund shall not be used to pay for goods or services for which appropriated funds may be legally used, even if the appropriated funds are exhausted or otherwise not available. Use of the Fund for any purpose for which appropriated funds may be legally used constitutes an impermissible augmentation of appropriations.

(a) ***Exception for library books and periodicals:***

Notwithstanding the rule against augmentation,

the Fund may be used to purchase books, periodicals and other resource materials for court libraries.

(b) ***Exception for overtime utilities and Courtroom Security Officer (CSO) overtime pay for unofficial court functions:*** Notwithstanding the rule against augmentation, the Fund may be used to pay for overtime utilities and CSO overtime pay for unofficial court functions as noted in Section 2.01.

- (2) The Fund shall not be used to supplement the salary of any court officer or employee, or other government official, or to provide a personal benefit to any judge or court employee, or his or her family member. A limited exception exists for the receipt of a *de minimis* personal benefit incidental to a proper expenditure from the Fund, e.g., meals, refreshments or hospitality items provided under section 2.01 of the *Guide*.
- (3) The Fund shall not be used to pay for official or personal travel by a judge or court employee or by his or her family member. A limited exception exists that allows the Fund to be used to pay for local transportation of a judge or court employee to attend bench/bar events.
- (4) The Fund shall not be used to pay for the printing of local rules.
- (5) The Fund shall not be used to provide continuing legal education for any judge or employee of the Court.

CHAPTER TWO

Authorized Uses of the Fund

Section 2.01 Authorized Expenditures

The District Court and Bankruptcy Court shall use the Fund only for purposes that inure to the benefit of the members of the bench and the bar in the administration of justice. Subject to the provisions of Section 1.03, examples of proper common uses of the Fund include but are not limited to the following activities:

- (a) **Attorney Admissions Proceedings:** Including expenses of admission committees and admission ceremonies.
- (b) **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.
- (c) **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.
- (d) **Auditing Fees:** Fees for services rendered by outside auditors or accountants in auditing the Fund.
- (e) **Cash Donations:** In consultation with and following procedures established by the JAC, educational grants may be made to law-related educational or charitable organizations, such as a bar association, historical society, or law school, for purposes that advance the administration of justice.
- (f) **Circuit Judicial Conference Expenses:** Expenses of circuit judicial conferences, to the extent permitted by the policy of the Judicial Conference of the United States.

- (g) **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 JAC, but only for expenses for which appropriated funds may not be used.
- (h) **District-Wide Bench/Bar Meetings:** Including expenses of meetings such as the Court's annual bench/bar meeting, the Court's district meeting at the circuit conference and other similar meetings, where various members of the bar are asked to assist in planning the meeting(s) and are invited to attend to discuss topics that are relevant and timely to both the Court and the members of the bar.
- (i) **Educational Outreach:** Including expenses to promote and assist area high schools participating in the events, e.g., expenses related to transporting students to and from the Court for the Court's annual Open Doors to Federal Courts programs and similar events.
- (j) **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.
- (k) **Hospitality Items:** Hospitality items (e.g., food, beverages, and mementos) for which appropriated funds may not be used.
- (l) **Lawyer Advisory Committee Meetings:** For expenses not payable out of appropriated funds, relating to matters that deal with the administration of justice.
- (m) **Overtime Utilities and Court Security Officer (CSO) Overtime Pay for Unofficial Court Functions:** For overtime utility expenses and CSO overtime pay incurred for unofficial events and functions that benefit the bench and the bar in the administration of justice as determined by the Chief Judge.

Such unofficial court functions include, but are not limited to:

- (1) Receptions and other social events involving members of the Court and sponsored by a bar association.
- (2) Bench and bar association-type meetings.
- (3) Other events of legal-related groups, organizations, or entities using courthouse space (e.g., law school and high school moot-court competitions/trial advocacy competitions, CJA panel continuing education programs).
- (4) Routine meetings of Inns of Court.

To expend funds under this provision, the Chief Judge of the District will make a determination that a particular court function (or series of related functions) is an unofficial court function that benefits the bench and the bar in and administration of justice prior to authorizing the disbursement of funds. In the Chief Judge's discretion, a determination may be made on recurring court functions as a group, rather than on an expenditure-by-expenditure basis. As to recurring court functions, the Chief Judge's determination shall be effective until the Chief Judge modifies the determination, or until appointment of a new Chief Judge.

- (n) **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.
- (o) **Reimbursement for Lawyer Representatives Attending Ninth Circuit Judicial Conferences:** Upon request to the Chief District Judge, lawyer representatives may be reimbursed for the costs of their lodging and coach class airfare or mileage incurred to attend the Ninth Circuit Judicial Conference.
- (p) **Surety Bonds:** Surety bonds for the custodian of the Fund and designated deputy clerks, to cover only the monies in the Fund.

- (q) **Other Authorized Purpose:** 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 and that receives the approval of the JAC.

Section 2.02 Pro Bono Expenses: Upon appointment as pro bono counsel on behalf of indigent pro se civil litigants, an attorney acting as appointed pro bono counsel for indigent pro se civil litigants may petition the Court for reimbursement from the Fund of certain expenses incurred. Such reimbursement shall be governed exclusively by the provisions of General Order 510, adopted September 29, 2011.

CHAPTER THREE

Judicial Advisory Committee

Section 3.01 **Role of the Court’s Judicial Advisory Committee:** The Court’s Judicial Advisory Committee (the JAC), shall advise the District and Bankruptcy Courts on matters of policy in the administration of the Fund and make recommendations to the District and Bankruptcy Courts on proposed expenditures.

Section 3.02 **Appointment Authority:** With the consent of the Court, the Chief Judge will appoint members of the JAC and shall designate one member to act as Chair. Pursuant to General Order 414, amending General Orders 348 and 390, the JAC shall consist of:

- (a) the Chief District Judge;
- (b) the Chief Bankruptcy Judge;
- (c) the Chief Magistrate Judge;
- (d) the Co-chairs of the District’s Lawyer Representatives Committee to the Ninth Circuit Judicial Conference;
- (e) the U.S. Attorney for the District or his/her designee;
- (f) the Federal Public Defender for the District or his/her designee;
- (g) the President of the Sacramento Chapter of the Federal Bar Association or his/her designee;
- (h) the President of the San Joaquin Valley Chapter of the Federal Bar Association or his/her designee;
- (i) the Chair of the Sacramento Valley Bankruptcy Forum or his/her designee;
- (j) the Chair of the Central California Bankruptcy Forum or his/her designee;
- (k) the California Attorney General or his/her designee;

- (l) the Co-Chairs of the District Conference Planning Committee;
- (m) Three or More At-Large Members Appointed for Three Year Staggered Terms by the Chief Judge of the District;
- (n) a Representative from the United States District Court, Eastern District of California Historical Society;
- (o) a Representative of the Federal Courts Committee of the State Bar of California;
- (p) the Chair of the Local Rules Committee of the District;
- (q) the Clerk of Court of the District, or his/her Designee; and
- (r) the ADR and Pro Bono Program Director.

Section 3.03 **Terms of Office for Committee Members:** Terms of office for members of the JAC will be established in the appointment order of the Chief Judge.

Section 3.04 **Duties of the JAC:** The JAC will advise the Court and the custodian on the administration of the Fund.

Section 3.05 **Compensation for JAC Members:** Members of the committee will serve without compensation.

CHAPTER FOUR

Court Responsibilities

Section 4.01 Fund Custodian and Responsibilities: The Clerk of the Court serves as the Fund custodian and is responsible for receiving, safeguarding, depositing, investing, disbursing, and accounting for all monies in the Fund according to any pertinent laws. The Fund custodian shall invest funds in excess of immediate needs in appropriate interest-bearing accounts at the direction of the Court or the JAC.

Section 4.02 Delegation of Fund Accounting Responsibilities: The Clerk of Court may delegate fund accounting and reporting responsibilities to any authorized deputy clerk.

Section 4.03 Surety Bonds Authorized: The Clerk of Court may recommend, and the JAC may authorize payment for surety bonds for the Fund custodian, and any authorized deputy clerk up to the amount of monies held by the Fund.

Section 4.04 Fund Accounting Procedures: The Fund custodian shall establish appropriate accounting and internal control procedures to administer the Fund and shall maintain records of all receipts, disbursements, and other significant activities relating to the Fund.

Section 4.05 Periodic Reporting Requirements

- (a) **Reports:** The Fund custodian will provide the Chief Judge with monthly balance statements and activity reports. The Fund custodian will provide the JAC with quarterly balance statements and activity reports.

- (b) **Annual Report:** By December 1st of each year, the Fund custodian will prepare an annual report for the Chief Judge and the JAC, detailing the Fund activity for the previous fiscal year (covering the 12-month period from October 1 - September 30).
- (c) **Content of Reports:** The above reports must include:
 - (1) beginning balance of assets;
 - (2) revenue during reporting period (collections and investments);
 - (3) disbursements during reporting period;
 - (4) ending balance of assets (bank balances and undeposited collections);
 - (5) obligations, accounts payable or known future expenditures; and
 - (6) available balance.
- (d) **Certification of Reports:** The Clerk of Court, as the Fund custodian, shall certify that the statements and reports accurately present the financial condition of the Fund.

Section 4.06 Final Accounting upon Change of Fund Custodian

- (a) **Final Audit:** Before the departure of a Fund custodian, the Chief Judge may order that an exit audit be conducted to verify the financial status and condition of the Fund. Upon completion, the outgoing Fund custodian will verify the exit audit and statement attesting to the assets, liabilities, obligations, and financial condition of the Fund at the time of transfer to a new Fund custodian.
- (b) **Acceptance of Custodial Responsibility:** Upon receipt of the exit audit and financial statement, and after verifying the financial condition of the Fund, the successor Fund custodian will file in the records of the Fund, a letter accepting custodial responsibility for all monies and accounts associated with the Fund.

Section 4.07 Audits and Inspections


- (a) **Regular Audits:** The Fund is subject to audit by the Administrative Office of the United States Courts and shall be included in the Court’s annual internal audits.
- (b) **Additional Audits:** If the JAC determines that additional audits are necessary, or appropriate, the Chief Judge may request an audit and use monies in the Fund to contract for services with an outside auditor or other disinterested person.
- (c) **Written Results of Audits:** The Fund custodian shall provide written audit reports to the Chief Judge and the JAC. Reports may be made available, upon written request, to any attorney admitted pursuant to Local Rule 180.

Section 4.08 Dissolution of the Fund

The Chief Judge, with the consent of the Court, may dissolve the Fund whenever it is deemed necessary to do so. All outstanding obligations of the Fund shall be paid prior to dissolution, including any expenses resulting from a required terminal audit or inspection. Upon dissolution, monies remaining in the Fund shall be disposed of pursuant to court order in a manner that is consistent with the original purposes of the Fund.

ADOPTED with the consent of the Court November 6, 2013.

Signed this 8th day of November, 2013.



MORRISON C. ENGLAND, JR., CHIEF JUDGE
UNITED STATES DISTRICT COURT