

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS**

Guidelines Governing the Reimbursement of Expenses in Pro Bono Cases

I. Eligibility for Reimbursement

In an Adversary Proceeding where an Application for Pro Bono Counsel has been allowed, an attorney appearing in the case (“Volunteer attorney”) may petition the Court for reimbursement of certain approved expenses incurred in the preparation of the prosecution or defense in the case, subject to these guidelines. The maximum reimbursement shall not exceed Five Thousand (\$5,000) dollars per case.

II. Restrictions on Eligibility

- A. Any costs that are either waived or recoverable under the provisions of Title 11, U.S. Code, 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 Volunteer attorney 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 before they are incurred, only those costs associated with the preparation of the prosecution or defense of the Adversary Proceeding before the Court shall be approved for reimbursement. No costs associated with the preparation or presentation of an appeal shall be reimbursed pursuant to these guidelines.
- D. Any costs or fees taxed against the represented party or Volunteer attorney because 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 30 days of appearing on the case, Volunteer Counsel shall submit to Court a budget of reasonably anticipated expenses to be incurred in the case. This budget shall not be placed on the docket, nor made available to the presiding judge or the parties. At any time thereafter, if the Volunteer attorney believes that the submitted budget is inadequate, the Volunteer attorney shall notify the Clerk of Court in writing or via email. As any reimbursement of approved expenses is contingent on the availability of funding at the time of the application, submission of a budget does not ensure reimbursement. However, the failure to submit or update timely a budget may be a consideration of whether reimbursement of expenses will be approved.
- B. Any expense of \$350 or more shall not be reimbursed unless the presiding judge approved the expense before it was incurred. Expenses totaling \$350 shall not be reimbursed if an interim request has been not been filed and approved.
- C. Within 30 days of the entry of a judgment or order of dismissal, the Volunteer attorney may apply for reimbursement of expenses by filing with the presiding judge a

“Request for Reimbursement of Pro Bono Attorney Expenses” (Request) on a form approved by the Court. For good cause shown, the Volunteer attorney may petition the court for an interim reimbursement. The Request shall not be docketed on the official docket of the case.

D. In the event the Volunteer attorney has withdrawn or has been dismissed prior to the entry of judgment or order of dismissal, the Volunteer attorney may file a Request within 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 or defense of the represented party’s case has been provided to the successor counselor, where there is no successor counsel, to the represented party.

E. If, after a reimbursement is approved and paid pursuant to these guidelines, the Volunteer attorney subsequently receives from another source any amount on account of the reimbursed expenses, counsel shall, within 30 days from said recovery, return to the Court the amount of the prior reimbursement equal to the amount received from the other source.

IV. Reimbursable Expenses

Subject to judicial review and approval, and available funding at the time of the application, the following out-of-pocket expenses may be reimbursed:

A. Depositions and Transcripts: The costs of depositions and transcripts may be reimbursed up to the rates, and subject to the limitations, established by the Court for the taxation of costs;

B. Investigative, Expert or Other Services: Investigative, expert or other services necessary for the adequate preparation of a matter;

C. Travel Expenses: Travel may be reimbursed at actual cost if public transportation is used, or if a private vehicle is used, at the rate of reimbursement for official government travel in effect at the time the expense was incurred, plus parking, tolls and similar costs;

D. Service/Witness Fees: Service and witness fees that are not otherwise avoided, waived or recoverable;

E. Interpreter Services: Costs of interpreter services not otherwise avoided, waived or recoverable;

F. Photocopies, Photographs, Printing, Long Distance Telephone Calls, etc.: Actual out-of-pocket expenses incurred for items such as photocopies, photographs, printing, long distance telephone calls, express and overnight delivery services. Copying of documents shall be reimbursed at the rate established by the Court for taxation of costs.

G. 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 Volunteer 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. When requesting reimbursement under this provision, a detailed description of the expenses shall be attached to the Request for Approval filed with the presiding judge.

V. Restrictions on Reimbursement

- A. General office overhead, including paralegal fees, are 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.