

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO



NOTICE FROM THE CLERK

NO. 10-19

ADOPTION OF GUIDELINES GOVERNING THE PREPAYMENT OR REIMBURSEMENT
OF EXPENSES IN CIVIL PRO BONO CASES UNDER LOCAL RULE 83(L)

Local Rule 83(L)(t) (Pro Bono Program) states that, if a Pro-bono litigant is unable to defray litigation expenses, the attorney appointed by the Court to represent him or her in a civil matter may request prepayment or reimbursement of expenses incurred in the preparation and presentation of the case.

On October 15, 2010, the Court adopted the "Guidelines Governing the Prepayment or Reimbursement of Expenses in Civil Pro Bono Cases" ("Guidelines"), implementing the necessary procedures for prepayment or reimbursement of expenses incurred in a Pro-bono Case under Local Rule 83(L).

These Guidelines supersede the "Guidelines Governing Reimbursement of Expenses Incurred by Court Appointed Counsel to Pro Bono Cases", dated March 4, 2005. A copy of the Guidelines enclosed herein are available at the Office of the Clerk and at Court's website: www.prd.uscourts.gov.

BY ORDER OF THE COURT.

In San Juan, Puerto Rico, this 27th day of October, 2010.

A handwritten signature in blue ink, appearing to read "Frances Rios de Moran". The signature is fluid and cursive.

FRANCES RIOS DE MORAN, ESQ.
CLERK, U.S. DISTRICT COURT

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

**REGULATIONS GOVERNING THE PREPAYMENT OR
REIMBURSEMENT OF EXPENSES IN CIVIL PRO BONO CASES**

I. Introduction

Pursuant to Local Civil Rule 83L, a party for whom counsel is appointed shall bear the cost of any expenses of the litigation to the extent reasonably feasible in light of the party's financial condition. If the party is unable to defray litigation expenses, the attorney appointed by the Court to represent him or her in a civil matter may request prepayment or reimbursement of expenses incurred in the preparation and presentation of the case. Funding for this program shall be obtained from the District Court's Non-Appropriated Funds - Special Fund for prepayment or reimbursement of expenses to attorneys assigned pro-bono cases ("Special Fund").

II. Limitations on Eligibility

- A. **Use of Available CJA Funds** - In any proceeding where expenses are covered by the Criminal Justice Act (Title 18 U.S.C. §3006A), they shall be paid from those funds in accordance with CJA guidelines and not from the Special Fund.
- B. **Limit on Total Expenses Covered by the Fund** - The appointed counsel is authorized to request the prepayment and/or reimbursement of expenses necessarily incurred up to \$5,000 per case. If the total of the prepayments or reimbursement requested and those already allowed exceed \$5,000, the request shall be forwarded

to the Chief Judge or his or her designee for approval. Where two or more parties in the same proceeding are represented by counsel appointed pursuant to Local Civil Rule 83L, the total amount of expenses to be paid from the Special Fund, without the need of prior approval from the Chief Judge or his or her designee, shall not exceed \$7,500.

- C. **Limit to Civil Actions Before the District Court** - Only those expenses associated with the preparation of a civil action in the U.S. District Court for the District of Puerto Rico shall be approved for reimbursement. No costs associated with the preparation or presentation of an appeal to the U.S. Court of Appeals or the U.S. Supreme Court shall be reimbursed from the Special Fund.

- D. **Overhead Costs, Costs of Computer Assisted Legal Research, and Costs of Printing Briefs Not Covered** - General office expenses, including personnel costs, rent, telephone services, secretarial help, office photocopying equipment, Pacer Service Costs and any other general overhead expense are not reimbursable from the Special Fund. Any costs incurred in conducting computer assisted legal research is not reimbursable from the Special Fund.

- E. **Not Available to Pay for Costs Awarded Against Party** - The Special Fund will not be used to pay costs or fees taxed against a party for whom counsel was appointed pursuant to Local Civil Rule 83L.

- F. **Repayment of Costs** - Where amounts have been prepaid from the Special Fund and the party for whom counsel was appointed prevails, the appointed counsel shall file a verified bill of costs pursuant to 28 U.S.C. §1920 and Local Civil Rule 54. All prepaid amounts taxed as costs are to be repaid to the Special Fund.

- G. **Recoverable Costs** - If the party for whom counsel was appointed prevails and prepayment of expenses were not requested during the pendency of the case, the appointed counsel shall file a verified bill of costs and not attempt to request reimbursement from the Special Fund.

- H. **Judgment or Settlement Agreement** - Any expenses prepaid or reimbursed from the Special Fund must be repaid to the Court upon recovery of judgment or monetary settlement.

III. Procedure for Obtaining Prepayment or Reimbursement

- A. **Request for Prepayment or Reimbursement of Expenses** - Any request for the prepayment or reimbursement of expenses shall be made on the voucher form approved by the Court (Appendix A) and available at the Clerk's Office and the Court's website. The request shall be accompanied by sufficient documentation to permit the Court to determine whether the request is appropriate and reasonable and,

where the request is for reimbursement, that the amounts have actually been paid. The request shall be filed with the Clerk and may be made at any time during the pendency of the proceedings and up to thirty days (30) following the entry of judgment. The judge presiding the case may, for good cause shown, extend the time for filing a request.

- B. **Requests for Prepayment or Reimbursement by Attorney No Longer Representing Party** - Where an attorney appointed under Local Civil Rule 83L is permitted to withdraw from representing the party in a proceeding, and the attorney has incurred expenses which may be reimbursable under these regulations, he or she may file a request for reimbursement within thirty (30) days of the date of the entry of the order allowing the withdrawal. Except for good cause shown, the Court will not allow reimbursement of expenses where the request was filed more than thirty (30) days after the entry of the order of withdrawal. Any work product or services obtained for which reimbursement of expenses is requested from the Special Fund shall subsequently be provided to newly-appointed counsel, or to the party, where no new counsel is appointed.
- C. **Ex Party Requests** - Requests for prepayment or reimbursement of expenses shall be made *ex parte*.
- D. **Payment by Appointed Counsel or Firm** - Appointed counsel or the firm with

which counsel is affiliated may advance part or all of the payment of any such expense without requiring that the party remain ultimately liable for that expense, except out of the proceeds of any recovery. The attorney or firm shall not be required, however, to advance the payment of any expense.

- E. **Voucher Processing by Clerk** - On receipt of a voucher form, the Clerk or his or her designee shall determine whether or not any payments have previously been made out of the Special Fund to cover expenses in the same proceeding. If no such payments have been made, the Clerk or his or her designee shall promptly issue the required check or checks in the amount(s) requested on the voucher form or the limit set by these Regulations, whichever is less. Where payments have previously been made from the Special Fund for expenses in the proceeding, the Clerk or his or her designee will determine whether the amounts authorized by the current voucher together with the amounts previously paid require consideration by the Chief Judge or his or her designee as to whether the matter presents extraordinary circumstances to justify payment in excess of the \$5,000 limit set by these Regulations. Where such consideration is required, the Clerk or his or her designee shall promptly transmit the voucher to the Chief Judge or his or her designee. On receipt of an approved voucher, the Clerk or his or her designee shall promptly issue the required check or checks in the amount(s) allowed by the Chief Judge or his or her designee. If the Chief Judge disallowed any or all of the requested amounts, the Clerk or his or her designee shall promptly transmit to the submitting attorney a copy of the voucher

showing the action of the Court.

The absence of an explanation or documentation regarding appropriateness or reasonableness of an expense, may entail the disallowance of the expense.

IV. Allowable Expenses

An appointed attorney may request prepayment or reimbursement of the following expenses:

- A. **Depositions and Transcripts** - An appointed attorney may order transcripts of depositions necessary for the preparation of the case. The cost of the transcript 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 was filed unless another rate was previously provided for by Order of the District Court. Except as otherwise ordered by the Court, only the cost of the original of any transcript or deposition shall be allowed.

- B. **Investigative or Expert Services** - Counsel may request investigative or expert services necessary for the adequate preparation of a matter to be presented before the Court. These services must have prior approval by the Chief Judge or his or her designee in order to seek reimbursement for fees or expenses of the expert from the Special Fund.

- C. **Travel Expenses** - Travel by privately owned automobile may be claimed at the rate

currently prescribed for federal judiciary employees who use a private automobile for conduct of official business, plus parking fees, tolls, and similar expenses. Transportation other than by privately owned automobile may be claimed on an actual expense basis. Per diem in lieu of subsistence is not allowable; only actual expenses may be reimbursed.

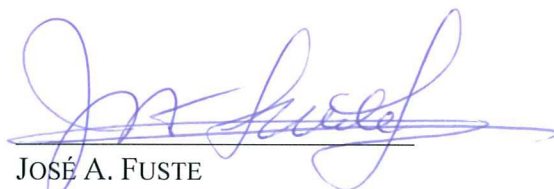
- D. **Service of Papers and Witness Fees** - Reasonable fees for service of papers and the appearance of witnesses that are not otherwise avoided, waived or recoverable may be reimbursed from the Special Fund.

- E. **Interpreter Services** - Costs of interpreter services not otherwise avoided, waived or recoverable may be reimbursed from the Special Fund.

- F. **Photocopying, Photographs, Etc.** - Except as provided by Section II.D., actual, out-of-pocket expenses incurred for items such as photocopying services, photographs, telephone toll calls, and telegrams necessary for the preparation of a case may be prepaid or reimbursed from the Special Fund.

- G. **Other Expenses** - Expenses other than those described above may be approved by the Chief Judge or his or her designee. When requesting reimbursement under this section, a detailed description of the expenses shall be attached to the petition for reimbursement filed with the Clerk of the Court.

These Regulations were adopted by the District Court on October 15, 2010, and supersede the Guidelines Governing Reimbursement of Expenses Incurred by Court Appointed Counsel to Pro Bono Cases (March 4, 2005).



JOSÉ A. FUSTE
CHIEF U.S. DISTRICT JUDGE

10/15/10

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

DISTRICT COURT SPECIAL FUND REIMBURSEMENT VOUCHER

_____ v. _____ -CV- _____

I, _____, duly appointed as counsel to represent _____ in the above entitled action, pursuant to Local Civil Rule 83.1L(t), hereby request reimbursement from the Non-Appropriated Funds - Special Fund of the following expenses incurred in the representation of my client before the District Court:

Table with 2 columns: Expense description and Amount. Rows include: Fees of the court reporter for transcripts or depositions necessary for the preparation of the case, Fees for investigative or expert services (with prior Court approval), Travel expenses, Fees for service of papers, Fees for witnesses, Fees for interpreter services, Expenses of photocopies, photographs, toll calls, telegrams, etc. necessary for the preparation of the case, Other expenses (attach detailed description of expenses), and Total.

I certify that the expenses noted above are reasonable and necessary. I further understand that, absent extraordinary circumstances, cumulative expenses in this matter are limited to \$5,000.00.

Signature of Attorney: _____ Date: _____

Name of attorney/Payee: _____

Mailing Address: _____

Payee's Social Security Number or Employer I.D. Number: _____

It is ordered that payment from the Non-Appropriated Funds - Special Fund be made in the amount of \$_____.

Signature of Chief Judge or Designee _____ Date: _____