NORTH Dakota Be Legendary.™ | **Commission on Legal Counsel for Indigents**

REIMBURSEMENT OF EXTRAORDINARY EXPENSES

A.   Investigative Services, Expert Witnesses, and Other Expenses

All expert witness fees and expenses, investigative services, and other authorized expenses to the extent that they exceed $500, in total, on any case assignment, must be pre-approved by the Commission. Similarly, any fees or expenses, not explicitly authorized by the contract to be paid by the Commission, must be pre-approved by the Commission. Regardless of whether the amount needs preapproval, if an attorney is going to expend any money on a case, they will be seeking reimbursement for, they shall email the Commission at clcivc@nd.gov to notify the Commission of "intent to expend funds".

The request must be made on a form approved by the Commission and sent to the Executive Director's office for review and decision. The request must identify the type of expense and identify why the expense is necessary for the case. The request must set forth the amount of the expense, and include detailed information including hourly rate, and anticipated hours to be expended on the case.

In determining whether to grant a request for extraordinary expenses under this section, the Commission will consider, but not be limited to, these factors:

1.   The complexity of the case. What is it about this case that requires extraordinary expense?

2.   Whether the information sought is relevant in the case. How does the information sought relate to issues in the case?

3.   Whether the information sought will be admissible in the case. Has counsel provided information showing that the expert is reliable? Has counsel provided information showing that the Court is likely to admit the evidence?

4.   The reasonableness of the expense. Have other options been considered? Will the State's Attorney subpoena the witness? Has counsel made efforts to have the witness testify via telephone or IVN?

If approved, the expense may be paid by the attorney and reimbursed by the Commission, or the invoice may be presented by the attorney to the Commission for payment direct to the witness or investigator. Payment will be made directly to the witness or investigator only if a Form W-9 Request for Taxpayer Identification Number and Certification for the current year is on file with the Commission.

No expert witness fee, investigative services fee, or other extraordinary expense will be approved and paid by the Commission unless this procedure has been followed.

B.   Special Case Compensation

A contract attorney may apply to the Commission for reasonable compensation over and above the normal contract amount for a contract case assignment which require an extraordinary amount of time and preparation.

The request must be made by email to the Commission at clcivc@nd.gov, and sent to the Executive Director's office for review and decision. The request should be made after completion of the case assignment, unless the financial burden of the case assignment is such that it may adversely affect the ability of the Contractor to provide adequate representation in the case.

The request must identify that the Contractor is seeking Special Case Compensation. It must identify why such compensation is sought in the case assignment and identify why the special compensation is necessary for the case assignment. The request must set forth the specific services provided, hours served on each, and itemize the expenses incurred. It must identify the amount of special compensation that is sought.

In determining whether to grant a request for Special Case Compensation, the Commission will consider, but not be limited to, these factors:

1.   The complexity of the case assignment, both factually and legally. What is it about this case assignment that requires extraordinary expense?

2.   The amount/length of time actually spent on the matter in comparison to the size of the contract.

No Special Case Compensation will be approved and paid by the Commission unless this procedure has been followed.

Adopted at the December 11th, 2006 Meeting, Amended at the September 16th, 2021 Meeting