

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF LASSEN

**FILED**  
Clerk of the Superior Court  
County of Lassen

GENERAL ORDER  
2019-02

DEC 19 2019

By   
DEPUTY CLERK

**ANCILLARY CRIMINAL DEFENSE EXPENSES**

**Ancillary services.** The right to ancillary services arises only when an indigent defendant demonstrates that funds are "reasonably necessary" for his or her defense. Corenevsky v Superior Court (1984) 36 C3d 307.

**A. SCOPE**

**B. REQUIRED SUBMISSION**

**C. REQUIRED DECLARATION**

**D. TRAVEL EXPENSES**

**E. EXPENSES FOR MEDICAL AND MENTAL HEALTH PROFESSIONALS**

**F. ADDITIONAL FUNDING**

**G. CLAIMS FOR THE PAYMENT OF ANCILLARY DEFENSE EXPENSES**

**A. SCOPE**

This rule establishes the requirements for the payment of reasonably necessary expenses that appointed counsel, retained counsel, and self-represented litigants incur in defending persons who are indigent.

This rule will refer to these reasonably necessary expenses as "ancillary defense expenses." All funds expended for ancillary defense expenses must have prior approval by Court order.

Funds approved for a specific purpose, moreover, may not be expended for another use without prior Court approval.

**B. REQUIRED SUBMISSION**

All initial applications for the authorization of ancillary defense expenses shall be submitted by ex parte motion to the clerk of the Court. The application shall be accompanied a declaration with the information described in subdivision C below.

The application and supporting declarations shall be marked "Confidential," and shall be kept in a confidential section of the Court file.

### **C. REQUIRED DECLARATION**

All applications for ancillary defense expenses shall be supported by a declaration setting forth:

- (1) A summary of the circumstances of the charged offense or facts that demonstrates why the funding of ancillary defense expenses is necessary in the interests of justice;
- (2) The status of the case;
- (3) The specific purpose for the funds, including the nature of the services to be rendered and an explanation why those services are reasonably necessary for the defense of the case; and
- (4) The name and title of each appointed service provider (investigator, expert, or other) for whom funds are being sought, the hourly rate and maximum amount expected to be charged for the service, travel-related expenses other than mileage, and any other special expenses.
- (5) Counsel and self-represented defendants seeking the services of multiple experts relating to a single or common issue must demonstrate a compelling necessity for such use of multiple experts. In addition, counsel and self-represented defendants must include in the request for reimbursement a representation that the rate requested:
  - (a) does not exceed the investigator's or expert's customary rates for the services performed, and
  - (b) does not exceed local prevailing rates for the services performed.

If a self-represented defendant has not suggested a particular investigator, the Court will select one from the rotational investigator list.

The maximum hourly billing rates, as well as the maximum initial authorizations, for all investigators and legal runners shall be set by the Presiding Judge of the Superior Court. Legal runner services, when approved by the Court, are limited to photocopying, and transporting materials, orders, and motions. Visits and phone calls to the County's detention centers must be associated with an allowable billable activity, and will be subject to the Court's discretion.

### **D. TRAVEL EXPENSES**

The court will determine the reasonableness and necessity of travel expenses on a case-by-case basis. Travel expenses are not considered necessary when the purpose of a trip may reasonably be accomplished in another way, such as by telephone or correspondence. Further, counsel should use the least expensive alternative means of travel. For motor vehicles, the mileage rate is the prevailing amount established by the Administrative Office of the Courts.

- (1) No funds may be expended for overnight travel by investigators, experts, or others without prior court approval. Pre-approved hourly investigation expenses may not be applied to overnight or airline travel costs unless expressly designated by the court for travel after an appropriate request.
- (2) Applications that include a request for travel expenses to interview witnesses must contain, in addition to the requirements above, a declaration setting forth:
  - a. The relevance and materiality of the witness's proposed testimony;
  - b. An explanation as to why a telephone interview or an interview conducted through the Internet or other forms of electronic communication would not suffice;
  - c. An explanation as to why it would not be practical to utilize the services of an investigator in the area where the witness lives;
  - d. Whether it would be feasible to fly the witness to the Reno-Tahoe International Airport for an interview, with a return flight the same day, to avoid the expense of overnight travel for the investigator; and
  - e. A representation that the applicant has endeavored to secure the lowest possible airfare.

When travel is required by appointed counsel or a person authorized to assist appointed counsel, reasonable and necessary meals and lodging may be claimed, to the extent allowed under State Board of Control rules. Some of the lesser known provisions of the Board of Control rules are as follows:

- (1) The per diem allowance does not apply for trips of 25 miles or less.
- (2) Lunch is not covered unless the travel period is 24 hours or more.
- (3) The cost of collision coverage in a contract for a rental car is not covered.

#### **E. EXPENSES FOR MEDICAL AND MENTAL HEALTH PROFESSIONALS**

On initial applications requesting authorization for expenses for doctors, psychologists, psychiatrists, and similar experts, the maximum amount allowed by the court will be an amount sufficient to procure an initial written report from the expert. This report should describe the need, if any, for further services at an approved rate. The defense must endeavor to negotiate the lowest hourly rate. If the defense retains an expert located more than 175 miles from the Lassen Superior Court, the declaration shall explain in detail why local experts could not be employed to provide similar services. Expenses for supplemental reports by experts or investigators may not be paid by the Court without prior Court approval.

#### **F. ADDITIONAL FUNDING**

After the initial funding approved by the declaration described in subsection C above has been exhausted, no additional work may be performed or compensated without first obtaining Court approval by submitting a supplemental funding request under this


subsection. Each application for additional funding for a previously authorized service provider (investigator, expert, or other) shall state, in the heading of the pleading, that it is a supplemental request, and shall include a declaration setting forth:

- (1) The date and amount of previous funding authorizations for the service provider;
- (2) The amount of any billings for services completed by the service provider and a general summary of those completed services;
- (3) The remaining balance from funds previously authorized for the service provider; and
- (4) A detailed description of the services remaining to be performed. Any additional request for the services of an expert must be accompanied by a report or declaration of the expert explaining the need for the additional services.

#### **G. CLAIMS FOR THE PAYMENT OF ANCILLARY DEFENSE EXPENSES**

Claims for the payment of ancillary defense expenses must have prior Court authorization as described above; without prior authorization, claims will not be paid. Claims for payment of ancillary defense expenses shall be submitted to the Lassen Superior Court, Attn: Administrative Department, 2610 Riverside Drive, Susanville, California 96130, and shall comply with the requirements of that Department, including any requirements for supporting documents.

Dated: December 19, 2019

  
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Tony Mallery  
Presiding Judge of the  
Lassen County Superior Court