

**Baycol Litigation MDL No. 1431
Procedures/ Standards**

**Submission of Attorney and Professional Time
And
Submission of Expenses**

Compliance with Pretrial Order 47

Special Master Haydock with the assistance of Accountant Joseph Kenyon reviewed time reporting guidelines established by the PSC and prepared additional and revised proposed procedures and standards. The following proposal was submitted to the Compensation Committee of this Court formed pursuant to PTO 47 for its comments.

The following procedures and standards are to govern the submission of attorney and professional fees and expenses by plaintiff law firms that seek payment from the Common Benefit Fund in accord with Pretrial Orders. No. 25 and 53 and related orders.

The effective date of these procedures and standards is July 1, 2003. Previously submitted time and expense records do not need to be modified and re-submitted to conform to these guidelines.

GENERAL PROVISIONS

Time Schedule for Submissions

Submissions by law firms to the MDL Court are to be made quarterly in compliance with Pretrial Order No. 47 no later than 30 days after the end of the quarter.

Monthly PSC Submissions

Lawyers involved with the PSC and the PSC Subcommittees are to comply with the PSC directives and procedures that do not conflict with these standards and submit their records on a monthly basis directly to the PSC. The PSC shall review them and forward them to Special Master Haydock and Accountant Kenyon quarterly.

Other Law Firm Quarterly Submissions

Law firms not submitting their fees and expenses to the PSC are to submit them on a quarterly basis to Joseph Kenyon, the Court appointed accountant:

Schechter Dokken Kanter
Suite 1600
100 Washington Avenue South
Minneapolis MN 55401-2192
612.332.5500
Fax 612.332-1529
jkenyon@sdkcpa.com

Common Benefit Time and Expenses

Time and expenses submitted are for the common benefit of plaintiffs and claimants in the MDL. Time and expenses spent on or for individual clients are not to be submitted.

Lawyers have the burden of establishing that the work performed or expenses incurred are for the common benefit. Descriptions and explanations must accompany the submissions that specifically establish the common benefit, unless it is otherwise readily evident. The failure to provide sufficient common benefit descriptions and explanations is a basis by itself for denial of the fees or expenses.

Audit

All firms that submit time and expenses are subject to outside audit when deemed necessary.

Acceptance

Submissions which comply with these procedures and guidelines will be accepted by this Court and considered for reimbursement as provided in Pretrial Orders 25 and 53 and subsequent orders. Submissions which do not comply with these procedures and guidelines will be rejected and not considered.

Accountability

Lawyers submitting time and expense records shall be considered as certifying to this Court that the time and expense records are accurate and comply with these standards.

Forms. PSC lawyers are to use the forms established by the PSC. Other lawyers are to use this or a similar format.

Questions/Issues

Questions or issues regarding the interpretation and application of these procedures and guidelines are to be e-mailed to Special Master Haydock at rhaydock@arb-forum.com and copied to Kandie Gibson at kgibson@cauleygeller.com.

ATTORNEY AND PROFESSIONAL TIME SUBMISSIONS

Information Provided

A daily record of time spent must be accurately and contemporaneously prepared, which includes:

Date

Time reported in tenths of an hour increments (e.g.: .2, .5, .8)

Identification of Attorney/Professional

Description/explanation of the work performed

A reasonable hourly rate

An Activity code:

1. Investigation and research
2. Discovery
3. Pleading, briefs, pre-trial motions (excluding class certification)
4. Court appearances
5. Litigation strategy and analysis
6. Class certification
7. Trial preparation and trial
8. Appeals
9. Settlement
10. Administrative (data and file management for the common benefit)
11. Travel

Reasonable Hourly Rate

The hourly rate used must be reasonable compared to professional fees charged for the similar geographic area and the skills of the professional.

Travel and Work Time

Travel time is to be charged if the traveler is traveling for necessary and essential reasons for the common benefit of Baycol plaintiffs and claimants. PSC lawyers may charge for travel time for events authorized or approved by the PSC. No professional may submit travel time if that professional is working on other cases or matters during that travel time.

EXPENSE SUBMISSIONS

Reimbursable Expenses

No expense will be reimbursed unless the following general criteria are met:

The expense was incurred for the common benefit of all plaintiffs and claimants.

The expense was not incurred on behalf of an individual client.

The expense is submitted in a timely manner, represents actual costs and is accurate.

The expense must be reasonable and necessary and is not lavish or extravagant.

Appropriate receipts and/or documentation of payment are included for expenses over \$25.00

If not evident, the purpose of the expense and how it specifically provides a common benefit must be described.

Any requests, approvals or exceptions provided by the Plaintiff's Steering Committee or Co-Lead Counsel are to accompany the request for reimbursement and must explain the purpose and reasoning of the request, approval or exception.

The expenses are submitted with the understanding that these policies have been complied with.

Specific Additional Requirements

Meals

All expenses for meals must include the receipt and clearly identify all individuals for whom reimbursement is sought.

Airfare

The documentation must show the commercial airline, date of purchase, the dates of travel, and the purpose of the trip. No more than airfare for a commercial airline with at least 14-day advance reservation coach rate will be reimbursed, unless circumstances exist which are explained that require a less than 14-day advance purchase or change.

For private airplane or chartered flights, the professional requesting reimbursement must provide a written statement from an airline website or an independent travel agent stating the lowest commercial airline coach fare for the travel for each passenger. This is the amount that will be considered for reimbursement unless the private rate is less.

Requests will be denied that fail to include this written documentation.

Hotel

Hotel expenses are limited to the greater of \$200 per night or the average of Hyatt, Hilton and Marriott for the city. For rooms that are shared, an additional \$50 for each additional person will be allowed. For example, if two people share a room the limit would be \$250.

Reasonable costs for hotel suites that are also used for Baycol meetings are reimbursable at actual costs. Lawyers who need a hotel suite or other accommodations for work purposes away from their office may submit additional reasonable expenses for these purposes.

Meeting/Hospitality Event

Reasonable expense associated with MDL meetings of plaintiff lawyers and hospitality events are reimbursable.

Allocated expenses

For expenses common to more than one MDL or action, the expenses shall be allocated to each MDL or action proportionate to the number of MDL or actions. In addition, any limits set forth shall apply to each expense before allocation. For example, if a hotel room at \$300 per night is to be allocated to MDL 1431 and one other action, MDL 1431's portion would be \$100 (\$200 limit divided by 2; not \$300 divided by 2 even though that result is less than \$200).

Rental automobiles

Only rates for ordinary vehicles will be reimbursed.

Mileage

Mileage will be reimbursed at the rate of 36.5 cents a mile.

Cell phone charges

Cell phone charges are reimbursable if they occur while traveling or are necessary while the professional is working locally. Land based telephones should be used when available. The invoice or billing must identify which calls related to MDL 1431 and identify the parties to the call.

Private Delivery Expenses. Actual expenses for private delivery services are reimbursable if the private delivery is necessary for service, filing, or delivery.

Law firm expenses. Law firm expenses for telephone, fax, postal charges, copying costs computer legal research, and other expenses are reimbursable equal to actual expenses incurred. No mark ups or overhead allocations are permitted.

Faxes and Copying Away from the Office

Reasonable fax and copying expenses incurred away from the office are reimbursable.

Deposition, Expert Witness, Exhibit Costs

Actual reasonable expenses will be reimbursable if not reimbursed by the PSC or other sources.

Equipment Purchases

No equipment purchases are reimbursable unless specifically authorized by the PSC

Overtime

Overtime will not be reimbursed except as required by law and necessary to complete a work project.

Monetary sanctions

Monetary sanctions, penalties, and fines of any type will not be reimbursed.

PSC Shared and Held Expenses

Only un-reimbursed Held and Shared expenses may be submitted for reimbursement.

Expenses and Premium billing

Expenses incurred at a law firm for legal research, copying, faxing, telephone, and related expenses may be considered part of the law firm's overhead and not separately reimbursable to those lawyers who charge premium-billing rates for their hourly work and are reimbursed for those premium hourly fees. It may be later determined by the Court that these expenses are a reasonable part of the law firm overhead and included in the premium hourly fee and not reimbursable separately.