

ETHICS & PRACTICE: BILLING IN APPOINTED INDIGENT CASES

(NON-CAPITAL AND NON-CRIMINAL CASES AT THE TRIAL LEVEL)

December 2007

This CLE presentation covers the following topics and is accompanied by the following written materials:

Video Topic	Materials
<u>The Journey of a Fee Application</u>	An outline of the steps involved with the submission and processing of a fee application in an appointed non-capital or non-criminal case at the trial level
<u>What's Billable</u>	IDS policies governing attorney fee and expense applications in non-capital criminal and non-criminal cases at the trial level
<u>Forms</u>	A one-page checklist for attorneys to use when completing fee applications in appointed cases
<u>Getting Paid</u>	A summary of the steps that have to occur before an attorney can get paid in an appointed case, including being established as a vendor in the North Carolina Accounting System, as well as information about payment options, 1099s, and what to do if your vendor information changes
<u>Record Keeping</u>	A summary of IDS' recommendations with respect to retention of appointed case files and billing records
<u>Closing Remarks</u>	Answers to some frequently asked questions and contact information for staff at the central IDS Office and IDS Financial Services Office

THE JOURNEY OF A FEE APPLICATION

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(NON-CAPITAL AND NON-CRIMINAL CASES AT THE TRIAL LEVEL)

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WHAT IS A FEE APPLICATION?

- ✓ It is your bill for legal services.
- ✓ In cases ending in a criminal conviction or some other result that can serve as the basis for repayment of attorney's fees, it is the document that triggers a civil judgment against your client or other responsible party.
- ✓ It is the source of data for IDS' research and auditing.

STEP 1: HOW MUCH SHOULD YOU BE PAID?—GETTING YOUR INFORMATION READY.

Your payment will be based on the amount of time you claim and the judge approves, as well as your approved expenses. So, the first step is to prepare your bill.

What Information Do You Need?

- ✓ Your hours (time sheets are required in certain jurisdictions).
- ✓ Documentation for expenses.
- ✓ The time period of your services.
- ✓ The case disposition date (combine all work for one client on one disposition date onto one fee application).
- ✓ The case information.
- ✓ The correct form (there are 3 different forms for non-capital and non-criminal cases at the trial level).

STEP 2: THE JUDGE SHOULD SET YOUR FEE AND ANNOUNCE ANY CIVIL JUDGMENT IN OPEN COURT.

You should always try to have your fee application ready at the time the case is disposed, so the judge can give your client notice and an opportunity to be heard about the amount of any civil judgment.

Once Your Fee Application Is Prepared:

- ✓ You need to sign it.
- ✓ The judge needs to review your time claimed, approve an appropriate amount of time, and set your fee at IDS' standard hourly rate.
- ✓ The judge needs to sign it.
- ✓ If your client is on probation or paying their fees in full, the clerk may enter the fee for your services on the bill of costs.

Some Procedures Vary By County:

- ✓ In some counties, attorneys bring their fee application directly to the judge.
- ✓ In other counties, attorneys leave it in the clerk's office and they review it and then submit it to the judge. (In counties using this practice, the judge should still set your fee in open court.)

STEP 3: THE CLERK SENDS ONE COPY OF YOUR FEE APPLICATION TO IDS FINANCIAL SERVICES IN RALEIGH FOR PAYMENT.

IDS Financial Services can only accept fee applications from clerks' offices and cannot accept fee applications directly from appointed attorneys.

Mail Can Take A While To Reach Financial Services:

- ✓ The criminal division sends it to the mail room and the State courier picks it up and brings it to Raleigh.
- ✓ Mail is delivered from the State courier in Raleigh to the AOC Warehouse and then to IDS Financial Services.

STEP 4: THE CLERK FILES A COPY OF THE FEE APPLICATION IN THE CASE FILE OR SHUCK AND (IN APPROPRIATE CASES) SENDS IT TO THE DEPARTMENT RESPONSIBLE FOR DOCKETING CIVIL JUDGMENTS.

STEP 5: FINANCIAL SERVICES REVIEWS YOUR FEE APPLICATION FOR COMPLETENESS, ENTERS IT INTO THE STATE ACCOUNTING SYSTEM, SCANS IT INTO IDS' IMAGING SYSTEM, AND ISSUES PAYMENT.

- ✓ Mail is processed in the order it is received.
- ✓ If your fee application is missing information, it is returned to the clerk to return to you for correction.
- ✓ If it is a duplicate of a payment that has already been made, it is destroyed.
- ✓ Once it is keyed, a check or direct deposit will be issued on the next check date (usually a Tuesday or Thursday).
- ✓ Your check will be mailed that afternoon or your electronic payment will reach your bank within 3 business days.
- ✓ Your check stub or direct deposit notification will include the case number, client name, and disposition date.
- ✓ Under normal conditions, you can expect payment within 30 days of receipt.

STEP 6: WHEN ALL IS DONE, WHERE IS THE INFORMATION ON YOUR FEE AND WORK STORED FOR FUTURE REVIEW AND AUDITING?

There Will Be A Record Of Your Fee And Work In A Number Of Places:

- ✓ Your files;
- ✓ The court file or shuck;
- ✓ The IDS imaging system;
- ✓ The North Carolina Accounting System (NCAS);
- ✓ The check or direct deposit record; and
- ✓ If a civil judgment is docketed against your client, North Carolina's Civil Case Processing System (VCAP).

WHAT'S BILLABLE

**OFFICE OF
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STATE OF NORTH CAROLINA**

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MEMORANDUM

To: Indigent Defense Attorneys, Public Defenders
Cc: District and Superior Court Judges, Clerks of Superior Court
Re: IDS Policies Governing Attorney Fee and Expense Applications in
Non-Capital Criminal and Non-Criminal Cases at the Trial Level
From: Office of Indigent Defense Services
Date: Updated December 2007

Pursuant to G.S. 7A-454, G.S. 7A-458, and G.S. 7A-498.3(c), the Office of Indigent Defense Services (“IDS”) hereby adopts the following policies and procedures, which shall govern fee applications that are directed to district and superior court judges in indigent non-capital criminal and non-criminal cases at the trial level.

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I. Attorney Fee and Expense Applications

A. The Application Forms:

To seek compensation in any non-capital criminal or non-criminal case that is finally disposed at the trial level on or after August 1, 2006, the appointed attorney or guardian ad litem must submit one of the following three fee application forms to the presiding district or superior court judge:¹

- AOC-CR-225 (Non-Capital Criminal Case Trial Level Fee Application, Rev. 4/06): An attorney applicant must complete this form for payment in any non-capital criminal case at the trial level.
- AOC-J-411 (Juvenile Delinquency Trial Level Fee Application, New 4/06): An attorney applicant must complete this form for payment in any juvenile delinquency or undisciplined contempt case.
- AOC-G-200 (Civil Case Trial Level Fee Application, Rev. 4/06): An attorney or guardian ad litem applicant must complete this form for payment in any civil proceeding, such as abuse/neglect/dependency, termination of parental rights, competency, commitment, and child support contempt cases.

For cases disposed on or after August 1, 2006, older versions of the fee application forms will not be accepted and will be returned unpaid. The forms are all available at www.ncids.org.

B. Fee Application Deadlines:

- Attorneys should consult IDS Rule 1.9(a)(1a) for deadlines on the submission of final fee applications in non-capital criminal and non-criminal cases at the trial level.
- For all cases finally disposed at the trial level before July 1, 2005, final attorney fee applications had to be signed by the appointed attorney and submitted to the trial judge by January 1, 2006.
- For all cases finally disposed at the trial level on or after July 1, 2005, final attorney fee applications must be signed by the appointed attorney and submitted to the trial judge within no more than one year after the date on which the case was finally disposed at the trial level.
- If a fee application was not submitted within the applicable deadline, the attorney may be eligible to apply to the IDS Director for a waiver of the deadline in accordance with IDS Rule 1.9(a)(1a) and IDS Policy, Extensions and Waivers of Appointed Attorney Fee Application Deadlines, *available at www.ncids.org*.

¹ Applicants seeking compensation for representation in cases that began with a charge of first-degree murder or undesignated degree of murder at the trial level (except cases in which the defendant was under 18 years of age at the time of the offense), as well as in capital appeals or capital post-conviction cases, should complete form AOC-CR-425 (Rev. 4/06) and submit it directly to the IDS Office. See IDS Rule 2A.1(a). Applicants seeking compensation for representation in non-capital criminal or non-criminal appeals should complete form AOC-CR-426 (Rev. 4/06) and submit it directly to the IDS Office. Policies governing fee applications that are submitted directly to the IDS Office are available at www.ncids.org.

C. General Billing Principles:

- Attorney time must be tracked and reported in hours and tenths of an hour (6 minute increments).
- Attorney time must be reported on fee applications in decimals, not minutes. (For example, if an attorney is claiming one and a half hours on a case, he or she should report that time as 1.50 hours, not 1.30 hours.)
- If an attorney seeks compensation for time spent waiting in court for multiple cases to be called or working on multiple cases simultaneously, the attorney's time must be prorated among each of the cases involved. IDS Rule 1.9(a)(1a).
- Attorney time spent preparing a fee application is not compensable.
- Absent exceptional circumstances that warrant personal delivery, attorney time and expenses associated with traveling to a court in another county for the sole purpose of hand-delivering or filing a document are not compensable.
- If required by the presiding judge or local rule, an applicant should attach to his or her fee application an itemized billing record that provides sufficient detail regarding counsel's services in the case to demonstrate that the claim for compensation is reasonable.

D. The Identity of the Attorney Applicant:

- The fee application forms require the attorney applicant to identify himself or herself as assigned counsel, public defender, or IDS contract counsel. (For civil cases, there is also an option for guardians ad litem.)
- Check the "assigned counsel" box *if*:
 - ✓ You are a private attorney and you are submitting one fee application for one client pursuant to an individual appointment to represent that person; or
 - ✓ You are a private attorney and you are submitting one fee application for several clients handled on a per session or per day basis pursuant to a fee arrangement that was pre-approved by IDS. In such circumstances, you should write "various clients" in the file number box and attach the court docket to the fee application.
- Check the "public defender" box *if*: You are a salaried state employee who works in one of the district public defender offices, and you are submitting the fee application solely for recoupment purposes (see Section IV. below).
- Check the "IDS contract counsel" box *if*: You are a private attorney who handled the case pursuant to a contract directly with the IDS Office, you are paid a set amount at regular intervals pursuant to the contract, and you are submitting the fee application solely for recoupment purposes (see Section IV. below).

E. Fee Applications Involving One Client with Multiple Cases:

- General Rule: If an attorney represents one client in multiple cases, and all of the cases are disposed of before the same Judge at the same time in the same court, the attorney should complete only one fee application for all of the cases.
- File Numbers: If you are submitting one fee application for one client where there are multiple file numbers, you should report the lowest file number in the highest court in the box labeled "File No.," and should report any other file numbers in the box labeled "Additional File Nos."
- Non-Capital Criminal Dispositions:
 - ✓ In completing a fee application for one client with multiple cases, you should view all of the cases disposed of together as a unit when reporting the original charge and the most serious disposition.
 - ✓ If the defendant pled guilty before trial to the most serious original charge, the most serious disposition should be reported as "Guilty Plea Before Trial: Most Serious Original Charge," regardless of the disposition of the less serious charges. Similarly, if the defendant was convicted at trial of the most serious original charge, the most serious disposition should be reported as "Trial: Guilty Most Serious Original Charge," regardless of the disposition of the less serious charges.

- ✓ If, on the other hand, the defendant pled guilty before trial to anything other than the most serious original charge, the most serious disposition should be reported as “Guilty Plea Before Trial: Other Offense.” For example, if you represented a client on a Class B and Class E felony, and both were disposed of together, the highest original charge should be reported as a Class B felony. If the Class B felony was dismissed, but the client pled guilty before trial to the Class E felony as charged, the most serious disposition should be reported as “Guilty Plea Before Trial: Other Offense.”
- Juvenile Delinquency Resolution of Charges:
 - ✓ In completing a fee application for one juvenile with multiple cases, you should view all of the cases disposed of together as a unit when reporting the original charge and the most serious resolution of charges.
 - ✓ If the juvenile admitted to the most serious original charge, the most serious disposition should be reported as “Admission: Most Serious Original Charge,” regardless of the disposition of the less serious charges. Similarly, if the juvenile was adjudicated delinquent of the most serious original charge, the most serious disposition should be reported as “Adjudicatory Hearing: Responsible—Most Serious Original Charge,” regardless of the disposition of the less serious charges.
 - ✓ If, on the other hand, the juvenile was adjudicated delinquent of an offense other than the most serious original charge, the most serious disposition should be reported as “Adjudicatory Hearing: Responsible—Other Offense.” For example, if you represented a juvenile on a Class C felony and a Class F felony, and both were disposed of together, the highest original charge should be reported as a Class C felony. If the juvenile was found not responsible for the Class C felony, but the juvenile was adjudicated responsible for the Class F felony, the most serious disposition should be reported as “Adjudicatory Hearing: Responsible—Other Offense.”

F. Grounds for Return: Non-Capital Criminal Case Fee Applications (AOC-CR-225, Rev. 4/06):

- All fee applications must be typed or printed legibly. Fee applications that are incomplete or illegible will be returned to the Clerk’s Office unpaid.
- Criminal fee applications that do not include the following information will be returned to the Clerk’s Office for completion or clarification:
 - ✓ Court
 - ✓ County
 - ✓ File number(s) (if there are multiple file numbers, see Section I.E. above)
 - ✓ Name and address of indigent client
 - ✓ Social security number of indigent client or indication that s/he has no social security number (if you cannot determine the client’s social security number after reasonable efforts, write “unknown”)
 - ✓ Original charge
 - ✓ Most serious disposition
 - ✓ Most serious judgment and sentencing
 - ✓ Disposition date (if final fee)
 - ✓ Beginning and ending dates for services rendered
 - ✓ Prior total fees and expenses allowed by a judge in the case (if applicable)
 - ✓ Total time claimed, as well as total time broken down into time in court, time waiting, and time out of court (unless you are being paid pursuant to a flat fee schedule that has been approved by IDS)
 - ✓ Expense information (if applicable); receipts are required for expenses that exceed \$25
 - ✓ The attorney’s name, address, telephone number, and taxpayer identification number
 - ✓ The attorney’s signature
 - ✓ The amount of fees and expenses allowed by the judge setting the fee
 - ✓ The name and signature of the judge setting the fee

G. Grounds for Return: Juvenile Delinquency Fee Applications (AOC-J-411, New 4/06):

- All fee applications must be typed or printed legibly. Fee applications that are incomplete or illegible will be returned to the Clerk's Office unpaid.
- Juvenile delinquency fee applications that do not include the following information will be returned to the Clerk's Office for completion or clarification:
 - ✓ County
 - ✓ File number(s) (if there are multiple file numbers, see Section I.E. above)
 - ✓ Name and address of indigent juvenile
 - ✓ Original charge
 - ✓ Most serious resolution of charges
 - ✓ Most serious disposition
 - ✓ Disposition date
 - ✓ Total time claimed, as well as total time broken down into time in court, time waiting, and time out of court (unless you are being paid pursuant to a flat fee schedule that has been approved by IDS)
 - ✓ Expense information (if applicable); receipts are required for expenses that exceed \$25
 - ✓ The attorney's name, address, telephone number, and taxpayer identification number
 - ✓ The attorney's signature
 - ✓ The amount of fees and expenses allowed by the judge setting the fee
 - ✓ The name and signature of the judge setting the fee

H. Grounds for Return: Civil Case Fee Applications (AOC-G-200, Rev. 4/06):

- All fee applications must be typed or printed legibly. Fee applications that are incomplete or illegible will be returned to the Clerk's Office unpaid.
- Civil fee applications that do not include the following information will be returned to the Clerk's Office for completion or clarification:
 - ✓ Court
 - ✓ County
 - ✓ File number(s) (if there are multiple file numbers, see Section I.E. above)
 - ✓ Name of indigent client
 - ✓ Original proceeding (appointed attorney or guardian ad litem section)
 - ✓ Most serious disposition (appointed attorney or guardian ad litem section)
 - ✓ Disposition date (if final fee)
 - ✓ Beginning and ending dates for services rendered
 - ✓ Prior total fees and expenses allowed by a judge in the case (if applicable)
 - ✓ Total time claimed, as well as total time broken down into time in court, time waiting, and time out of court (unless you are being paid pursuant to a flat fee schedule that has been approved by IDS)
 - ✓ Expense information (if applicable); receipts are required for expenses that exceed \$25
 - ✓ The attorney's or guardian ad litem's name, address, telephone number, and taxpayer identification number
 - ✓ The attorney's or guardian ad litem's signature
 - ✓ The amount of fees and expenses allowed by the judge setting the fee
 - ✓ The name and signature of the judge setting the fee

II. Standard Hourly Attorney Fees

A. Standard Hourly Rate:

- For all fee applications in non-capital criminal and non-criminal cases at the trial level that are signed by a judge before February 1, 2008, the standard hourly attorney fee is \$65 per hour. For all fee applications in non-capital criminal and non-criminal cases at the trial level that are signed by a judge on or after February 1, 2008, the standard hourly attorney fee will be \$75 per hour, regardless

of whether the work was performed before that date. For cases in which an attorney claims and the court approves less than one hour of time, the fee shall be for one hour. *See* IDS Rule 1.9(a).

- Pursuant to IDS Rule 1.9(a)(1b) and (a)(2), judges are asked to review the hours claimed on each fee application and to approve or reduce those hours on line 1 in Section II. of the fee application forms. Judges should make that determination based on the factors normally considered in setting attorney fees, such as the nature of the case, the experience of the lawyer, and the effort and responsibility involved. Once the judge has approved a certain amount of time, the fee should be calculated by multiplying the hours approved by the applicable hourly rate—*i.e.*, \$65 for fee awards that are signed by a judge before February 1, 2008 or \$75 for fee awards that are signed by a judge on or after February 1, 2008.
- Fee awards that are not set at IDS' standard hourly rate for the approved amount of time (or a pre-approved alternative rate pursuant to II.B. below) will be returned to the judge who set the fee with a request that the amount be adjusted before payment is issued.

B. Deviations from the Standard Rate:

- Districts may utilize compensation systems other than IDS' standard hourly rate, such as per case fee schedules or per session rates, only with the prior written approval of the IDS Director. *See* IDS Rule 1.9(a)(5).

III. Reimbursable Expenses

The following case-related expenses are reimbursable if the judge setting the fee finds them to be necessary and reasonable. Attorneys may seek prior approval of expenses from a Judge before they are incurred.

A. In-State Travel:²

- Mileage: Mileage is reimbursable at the current state rate for out-of-county travel only. In-county travel is not reimbursable. For all fee applications submitted to a judge on or after July 16, 2007, the mileage rate is \$0.45 per mile.
- Meals: Meals are only reimbursable if there is an overnight stay and then in accordance with the current state authorized per diem, with one per diem per overnight stay. Receipts are not required. As of July 16, 2007, the in-state per diem is \$34.
- Lodging: The actual cost of over-night lodging is reimbursable, not to exceed the current state authorized rate of \$63.75 as of July 16, 2007. In addition, actual taxes incurred are reimbursable. A valid hotel receipt is required, and credit card receipts will not be accepted.

B. Out-Of-State Travel: *Attorneys are urged to obtain prior written approval from a Judge before incurring out-of-state travel expenses.*

- Travel Costs: Reasonable travel costs are reimbursable with receipts.
- Meals: Meals are only reimbursable if there is an overnight stay and then in accordance with the current state authorized per diem, with one per diem per overnight stay. Receipts are not required. As of July 16, 2007, the out-of-state per diem is \$36.25.
- Lodging: The actual costs of over-night lodging is reimbursable, not to exceed the current state authorized rate of \$75.50 as of July 16, 2007. In addition, actual taxes incurred are reimbursable. A valid hotel receipt is required, and credit card receipts will not be accepted.

C. Photo-Copying:

- In-house copying costs are reimbursable at a rate not to exceed \$0.10 per page.
- The actual cost of out-of-house copies are reimbursable with a receipt, at a rate not to exceed \$0.10 per page.

² Reimbursement rates for travel-related expenses are based on the current travel allowances for State employees. *See* G.S. 138-6.

D. Facsimiles:

- The cost of sending facsimiles from a personal or office machine is reimbursable at a rate not to exceed \$0.05 per page.
- The actual cost of sending facsimiles from an outside machine, such as a hotel facsimile machine, is reimbursable with a receipt.

E. Computerized Legal Research:

- The actual case-related costs of computerized legal research (*e.g.*, Lexis-Nexis and Westlaw) are reimbursable only if receipts are provided.
- Courtsearch, NC 123, DMV and DOC searches, etc.: The actual case-related costs of any such computerized searches are reimbursable only if receipts are provided. If actual costs are not incurred, an attorney may be compensated for his or her time according to the hourly rate, but may not be compensated any amount per search.

F. Other Expenses:

- For all “other expenses” that cumulatively exceed \$25.00 (*e.g.*, parking, postage, film, etc.), an applicant must submit receipts.
- Normal overhead expenses, such as case notebooks, paper, push pins, etc., are not reimbursable.

IV. Recoupment: Findings of Fact and Civil Judgments for Attorney Fees

A. Non-Capital Criminal Cases at the Trial Level (AOC-CR-225, Rev. 4/06):

- The back of form AOC-CR-225 is designed to facilitate the entry of civil judgments against a defendant who has been convicted or pled guilty or nolo contendere pursuant to G.S. 7A-455 (attorney fees) and G.S. 7A-455.1 (\$50 attorney appointment fee).³
- If the Judge signs Section IV. of form AOC-CR-225, and does not check any of the boxes in Section III. under Judgment #1 or Judgment #2, the Judge has entered judgments for the total amount of attorney fees and the \$50 attorney appointment fee.
- If the Judge determines that a judgment is not appropriate for attorney fees and/or the \$50 attorney appointment fee, the appropriate “opt out” box must be checked under Judgment #1 and/or Judgment #2.
- When completing this fee application, attorneys should provide the name, address, and social security number of the defendant at the top of form AOC-CR-225. (If an attorney cannot determine the client’s social security number after reasonable efforts, he or she should write “unknown.”)

B. Juvenile Delinquency Cases at the Trial Level (AOC-J-411, New 4/06):

- The back of form AOC-J-411 is designed to allow the Judge to enter a civil judgment against a responsible parent or guardian for the value of legal services provided to a juvenile in a delinquency proceeding or an undisciplined contempt proceeding.
- Pursuant to G.S. 7A-450.1 through -450.4 and G.S. 7B-2000, the Judge has discretionary authority to enter a judgment against a responsible person if the juvenile was adjudicated delinquent or held in contempt for failure to comply with an undisciplined order. In deciding whether to enter judgment, the Judge should consider the factors set forth in G.S. 7A-450.3.
- When completing this fee application, attorneys should provide the name, address, and social security number of any potentially responsible parent or guardian in Section III. of form AOC-J-411.

³ A separate memorandum has been distributed to court officials concerning the implementation of G.S. 7A-455.1, as revised by Session Law 2005-250, which provides for a \$50 attorney appointment fee in criminal cases.

C. Civil Cases at the Trial Level (AOC-G-200, Rev. 4/06):

- The back of form AOC-G-200 is designed to allow the Judge to enter a civil judgment against either a respondent or a responsible parent or guardian in certain types of proceedings.
- Pursuant to G.S. 7A-450.1 through -450.4 and G.S. 7B-603, the Judge has discretionary authority to enter a civil judgment against the respondent for the value of attorney or guardian ad litem services provided to the respondent in the following types of cases: 1) abuse, neglect, or dependency cases in which the child was found to have been abused, neglected, or dependent; and 2) termination of parental rights proceedings in which the parent's rights were terminated. In deciding whether to enter judgment against the respondent, the Judge should consider the factors set forth in G.S. 7A-450.3.
- Pursuant to G.S. 7A-450.1 through -450.4 and G.S. 7B-603, the Judge also has discretionary authority to enter a civil judgment against a responsible parent or guardian for the value of attorney or guardian ad litem services provided to a juvenile in the following types of cases: 1) abuse, neglect, or dependency cases in which the child was found to have been abused, neglected, or dependent; and 2) termination of parental rights proceedings in which the parent's rights were terminated. In deciding whether to enter judgment against a responsible person, the Judge should consider the factors set forth in G.S. 7A-450.3.
- Finally, pursuant to G.S. 7A-455, the Judge may enter a civil judgment against a respondent who has been held in criminal contempt in a child support contempt proceeding.
- When completing this fee application, attorneys should provide the name, address, and social security number of the respondent or any potentially responsible parent or guardian in Section III. of form AOC-G-200.

D. Fee Applications Submitted by Public Defenders or IDS Contract Counsel:

- When a fee application is submitted by a public defender or IDS contract counsel solely for recoupment purposes, the Court should fix the value of services rendered and enter civil judgment(s) as appropriate. In those cases, the Clerk should docket the judgment(s) as provided by law and file the fee application in the court file. Fee applications that are submitted by public defenders and IDS contract counsel should not be forwarded to IDS Financial Services for payment.

V. Expert and Support Services

A. Expert Fees:

- Prior authorization is required for the use of any expert services. To obtain such authorization in a non-capital criminal or non-criminal case at the trial level, the attorney should submit a motion and proposed order to the presiding judge.
- After the expert services are rendered, the attorney or expert should submit a copy of the Court Order and the expert's bill to IDS Financial Services at the following address: P.O. Box 2448, Raleigh, NC 27602.

B. Lay Witness Fees:

- Compensation for the time and expenses of lay witnesses is governed by G.S. 7A-314(a)-(c) & (e). Those provisions set statutory allowances for the time, mileage, lodging, and meals for lay witnesses.
- If you are seeking compensation for a lay witness in any category of case, you should complete form AOC-CR-235 ("Witness Attendance Certificate"), and submit it to the Clerk or Judge as required by G.S. 7A-314.

C. Foreign Language Interpreters:

- G.S. 7A-314(f) provides that "[i]n a criminal case when a person who does not speak or understand the English language is an indigent defendant[or] a witness for an indigent defendant, . . . and the court appoints a language interpreter to assist that defendant or witness in the case, the reasonable

fee for the interpreter's services, as set by the court, are payable from funds appropriated to the Administrative Office of the Courts."

- If an attorney needs the services of a foreign language interpreter or translator in any category of case, he or she should obtain prior authorization from the Court. For details about obtaining an out-of-court interpreter or translator, see the IDS policy on out-of-court foreign language interpreters and translators, available at www.ncids.org under the "Rules & Procedures" link.

D. Interpreters for Deaf Persons:

- G.S. 8B-2, 8B-6, and 8B-8 (1999) govern the appointment and compensation of interpreters for deaf persons.
- If you need the services of a sign language interpreter in any category of case, you should obtain prior authorization from the Court using AOC-G-116 ("Motion, Appointment And Order Authorizing Payment Of Deaf Interpreter Or Other Accommodation"). The interpreter can then seek payment from the Clerk using that same form.

VI. Clerk Responsibilities

A. Fee Awards Must be Sent to IDS by the Clerk's Office:

- IDS Financial Services will only accept appointed attorney fee awards from the Office of the Clerk of Superior Court in the county where the case originated.
- The Clerk's Office does not have to certify each individual fee application. However, whenever fee applications are mailed to Financial Services, the Clerk's Office must include in the envelope a cover letter on official letterhead stating that the enclosed fee applications are being mailed directly from the Office of the Clerk of Superior Court.
- Fee applications that are mailed to Financial Services by appointed attorneys will be returned to the attorneys unpaid.

B. Timely Forwarding of Fee Awards:

- We urge Clerk's Offices to forward attorney fee awards to Financial Services as promptly as possible. Prompt forwarding of fee awards allows IDS to pay attorneys as quickly as possible for their services and to capture accurate data about the demand on the indigent defense fund.
- Information about the timing of attorney payments, including check run dates, is posted at www.ncids.org under the "News & Updates" link.

VII. Questions?

If attorneys or court officials have questions or concerns about these policies or other billing matters, they should contact Danielle M. Carman, IDS Assistant Director, at (919) 560-3380 or Danielle.M.Carman@nccourts.org.

FORMS

ATTORNEY CHECKLIST FOR COMPLETING FEE APPLICATIONS IN APPOINTED CASES

(NON-CAPITAL AND NON-CRIMINAL CASES AT THE TRIAL LEVEL)

December 2007

A fee application will be returned to the clerk's office if any of the following is missing or illegible...

USE THE CORRECT FORM:

- AOC-CR-225: For attorneys in non-capital criminal cases at the trial level.
- AOC-J-411: For attorneys in juvenile delinquency or undisciplined contempt cases.
- AOC-G-200: For attorneys or guardians ad litem in certain civil proceedings.

TIMELY SUBMISSION:

- Final fee applications must be submitted to the judge within one year of case disposition.

CORRECT CASE INFORMATION:

- County.
- Court of disposition.
- Case number, including CR, CRS, SP, J, CVD, or E designation.

INDIGENT CLIENT INFORMATION:

- Name and address of client.
- Social security number of client or responsible person. (Check no social security number if none or write unknown if it can not be determined after reasonable efforts.)

ORIGINAL PROCEEDING AND CASE DISPOSITION:

- AOC-CR-225: Most serious original charge, disposition, and judgment and sentencing.
- AOC-J-411: Most serious original charge, resolution, and disposition.
- AOC-G-200: Original proceeding and most recent disposition.
- Please do not check "other" unless none of the pre-printed options are appropriate!

COMPLETE DATES AND HOURS INFORMATION:

- Case disposition date on final fee applications.
- Beginning and ending dates of your work for the specific fee request.
- Time broken down by in court, waiting in court, and out of court.
- Total time claimed (in decimals, not minutes), unless an IDS approved flat fee.
- If the fee application is for services as an "attorney for the day" or at a per session rate, attach the court docket.

EXPENSE INFORMATION:

- Utilize IDS' standard reimbursement rates for travel, in-house copying, etc.
- Receipts are required for non-travel expenses over \$25.

ATTORNEY INFORMATION:

- Attorney name, address, and tax ID.
- Attorney signature with date.

JUDGE INFORMATION:

- Judge name (completed by the attorney).
- Hours and expenses approved by the court (completed by the judge).
- Judge's signature with date.

For more details, please check the IDS website. Go to www.ncids.org, and click on "IDS Rules & Procedures" and then "Attorney and Expert Fee & Expense Policies."

Questions? Contact Elisa Wolper at 919.560.3380 or Elisa.Wolper@nccourts.org.

(TYPE OR PRINT IN BLACK INK)

In The General Court Of Justice

File No.

STATE OF NORTH CAROLINA

- District Court Division
Superior Court Division

Additional File Nos.

District Court cases must have CR file number. Superior Court cases must have CRS file number.

County

Name And Address Of Indigent Client

NON-CAPITAL CRIMINAL CASE TRIAL LEVEL FEE APPLICATION ORDER FOR PAYMENT JUDGMENT AGAINST INDIGENT

Social Security No.

Has No Social Security No.

G.S. Ch. 7A, Art. 36; G.S. 122C-268(d), -286(d)

NOTE: Use this form ONLY for non-capital criminal cases at the trial level - i.e. only for cases with a CR or CRS case caption. DO NOT use this form for non-criminal cases at the trial level, potentially capital cases at the trial level, appeals to the Court of Appeals or Supreme Court, or capital post-conviction cases.

INSTRUCTIONS: Applicant completes and signs all applicable portions of Section I. The trial judge completes Sections II and III and signs Section IV to award payment or fix value of services and enter the appropriate judgments.

I. APPLICATION

I, the undersigned assigned counsel public defender IDS contract counsel make application for payment and reimbursement of necessary expenses incurred, or for determination of value of services rendered for the indigent. I certify that this information is correct to the best of my knowledge.

MOST SERIOUS ORIGINAL CHARGE AND MOST SERIOUS DISPOSITION: Check ONE box in each of the following 3 columns.

1. Original Charge (most serious offense)
2. Disposition (most serious disposition)
3. Judgment & Sentencing (most serious)

FINAL FEES ONLY: Disposition Date Check here if you were appointed to represent this defendant in another case(s) at the time of the appointment to this case(s) and you already submitted a fee application for that case(s) in which the \$50 attorney appointment fee was charged.

Table with columns for Beginning Date, Ending Date, Prior Total Fees, Name Of Judge, Time In Court, Time In Court Waiting, Time Out Of Court, Total Time Claimed, Travel, Long Distance Telephone, Copying, Other, Total Expenses.

NOTE: In assigned counsel cases, the applicant is always the individual attorney. If payment is to be made to individual applicant, write "same" under payee and give applicant's taxpayer ID No.

Name Of Applicant, Payee, Taxpayer ID No., Telephone No., Date, Signature Of Applicant, Address

II. ORDER TO PAY OR FIX VALUE OF SERVICES

Based on the Findings of Fact set out in Section III, the Court ORDERS that the "Total Amount" stated on Line 4 below be:
Assigned Counsel paid by the State of North Carolina to the payee named above.
Public Defender/IDS Contractor fixed as the value of legal services and other expenses of representation rendered by the applicant named above.

Table with 2 columns: Description (1. Hours Approved, 2. Fees Allowed, 3. Other Necessary Expenses, 4. TOTAL AMOUNT) and Amount.

III. FINDINGS OF FACT AND JUDGMENTS

After due notice to the defendant named on the reverse and opportunity to be heard, the Court finds that the defendant has previously been adjudged to be indigent; that he/she requested and has been provided counsel and other necessary expenses of representation; and that the applicant named on the reverse provided services and incurred expenses of which the money value is that stated in Line 4 of Section II, plus any interim fees listed in the box in Section I labeled "Prior Total Fees And Expenses Allowed By Judge."

NOTE: Sign Section IV to enter judgments against the indigent defendant for the full value of attorney fees and expenses plus the \$50 attorney appointment fee. If no judgments are to be entered, or judgments are to be entered for a different amount, the trial court must fill in the appropriate blanks below. When entering Judgment #1, the trial court should verify the amount of any interim fees awarded.

NOTE: To enter Judgment #1 against a parent/responsible person, pursuant to G.S. 7A-450.1 et. seq, a separate order must be entered (may be modeled after Section III of form AOC-G-200).

JUDGMENT #1 (*Attorney Fees and Expenses*) Based on the above findings, it is ORDERED that the State of North Carolina recover from the indigent defendant the TOTAL AMOUNT stated in Line 4 of Section II, plus any interim fees listed in the box in Section I labeled "Prior Total Fees And Expenses Allowed By Judge," together with interest at the legal rate from the date the judgment is docketed until paid, unless one of the following boxes is checked:

- 1. This is an interim fee or this case is still pending, and no judgment shall be entered at this time (*this order shall be brought to the attention of the presiding judge at the time of final disposition*); or
- 2. The defendant was not convicted of a criminal offense and no judgment for attorney fees and expenses shall be entered; or
- 3. Other: _____

JUDGMENT #2 (*Attorney Appointment Fee*) It is further ORDERED that the State of North Carolina recover from the indigent defendant the \$50 attorney appointment fee pursuant to G.S. 7A-455.1, unless one of the following boxes is checked:

- 1. This is an interim fee or this case is still pending, and no judgment shall be entered at this time; or
- 2. The defendant was not convicted of a criminal offense and no judgment for the \$50 attorney appointment fee shall be entered; or
- 3. The attorney named on the reverse was appointed to represent the defendant in another case(s) at the time of the appointment to this case(s) and he or she already submitted a fee application for that case(s) in which the \$50 attorney appointment fee was charged (*see Section I, "Final Fees Only," on the reverse*); or
- 4. Other: _____

IV. SIGNATURE OF JUDGE

By signing below, the Court enters an ORDER TO PAY APPLICANT OR FIX VALUE OF SERVICES in the amount indicated in Section II on the reverse, which shall be entered and filed this day in the office of the Clerk of Superior Court. Unless no judgment is ordered in Section III above, the Court further Orders that the FINDINGS and JUDGMENTS shall be entered and filed this day in the office of the Clerk of Superior Court. The Judgments shall become effective as provided by law.

Date	Name Of Judge (Type Or Print)	Signature Of Judge
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V. DOCKETING - CSC USE ONLY

NOTE: Docket any judgments immediately on the date on which the defendant's conviction becomes final, unless the defendant is ordered as a condition of supervised or unsupervised probation to pay the State for the costs of his/her representation. If the defendant is so ordered, docket any judgments immediately on the date the defendant's probation is revoked or terminated by the Court, or when the term of probation expires, whichever occurs first; then docket the amounts owing.

Date	Time	Judgment #1 Docket Book And Page No.	Abstract No.	Amount Docketed
	<input type="checkbox"/> AM <input type="checkbox"/> PM			\$
		Judgment #2 Docket Book And Page No.	Abstract No.	\$

(TYPE OR PRINT IN BLACK INK)

In The General Court Of Justice
District Court Division

File No.

STATE OF NORTH CAROLINA

Additional File Nos.

County

Name And Address Of Juvenile

**JUVENILE DELINQUENCY TRIAL LEVEL
FEE APPLICATION
ORDER FOR PAYMENT
JUDGMENT AGAINST PARENT/GUARDIAN**

*Complete name, address and SSN of responsible person(s) on side 2.

G.S. Ch. 7A, Art. 36; G.S. Ch. 7B, Subch. II

NOTE: Use this form ONLY for juvenile delinquency and undisciplined contempt cases at the trial level. DO NOT use this form for criminal cases, or appeals to the Court of Appeals or Supreme Court. Attorneys should consult IDS Rule 1.9(a)(1a) for deadlines on the submission of final fee applications.

INSTRUCTIONS: Applicant completes and signs all applicable portions of Section I. If no judgment is entered, trial judge completes and signs Section II only. If judgment is entered, trial judge completes but does not sign Section II, then completes Section III and signs Section IV. Clerk mails private appointed counsel fee applications to: Administrative Office of the Courts, Attn: Indigent Program, Financial Services Division, Courier Box 56-10-50, Raleigh, NC, OR if courier is not available, mail to P.O. Box 2448, Raleigh, NC 27602.

I. APPLICATION

I, the undersigned assigned counsel public defender IDS contract counsel make application for payment and reimbursement of necessary expenses incurred, or for determination of value of services rendered for the indigent. I certify that this information is correct to the best of my knowledge.

ORIGINAL PROCEEDING AND DISPOSITION: Check ONE box in each of the following 3 columns. In columns 2 and 3, check the one box that describes the most recent resolution and disposition.

<p>1. Original Charge (most serious offense)</p> <input type="checkbox"/> Felony Offense <i>Must Indicate Felony Class:</i> _____ <i>Name of Offense:</i> _____	<p>2. Resolution Of Charges (most serious resolution)</p> <input type="checkbox"/> Admission: Most Serious Original Charge <input type="checkbox"/> Admission: Other Offense <i>Name of Offense:</i> _____ <input type="checkbox"/> Adjudicatory Hearing: Responsible-Most Serious Original Charge <input type="checkbox"/> Adjudicatory Hearing: Responsible-Other Offense <i>Name of Offense:</i> _____ <input type="checkbox"/> Adjudicatory Hearing: Not Responsible <input type="checkbox"/> Probation Violation Found <input type="checkbox"/> Case Transferred To Superior Court (Waiver) <input type="checkbox"/> Case Transferred To Superior Court (Contested) <input type="checkbox"/> Dismissed With Leave <input type="checkbox"/> Dismissed Without Leave <input type="checkbox"/> Continued Adjudication (Admission) <input type="checkbox"/> Contempt: Failure To Comply With Undisciplined Order <input type="checkbox"/> None (Attorney Withdrew) <input type="checkbox"/> Other: _____	<p>3. Disposition (most serious disposition)</p> <input type="checkbox"/> Commitment To YDC <input type="checkbox"/> Out-Of-Home Placement <input type="checkbox"/> DSS Custody <input type="checkbox"/> Detention/Intermittent Confinement <i>Number of days:</i> _____ <input type="checkbox"/> Probation <input type="checkbox"/> None (Transferred To Superior Court) <input type="checkbox"/> None (Not Responsible/Dismissed) <input type="checkbox"/> None (Continued Adjudication) <input type="checkbox"/> None (No Disposition Entered) <input type="checkbox"/> None (Attorney Withdrew) <input type="checkbox"/> Other: _____
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COMPLETE FOR THIS FEE: (Attach detailed time sheets when required by judge. Time must be reported in decimals, not minutes.)	Disposition Date		Time In Court	Time In Court Waiting	Time Out Of Court	Total Time Claimed This Fee
	Name Of Judge Setting Fee	Travel	Long Distance Telephone	Copying	Other	Total Expenses
	<p>NOTE: In assigned counsel cases, the applicant is always the individual attorney. If payment is to be made to individual applicant, write "same" under payee and give applicant's taxpayer ID No. (either Federal Employer ID No. or, if no Federal Employer ID No., SSN). If payment is to be made to applicant's firm, give firm name as payee and firm's taxpayer ID No.</p>					

Name Of Applicant		Address			
Payee (see note)					
Taxpayer ID No. (see note)	Telephone No.	Date	Signature Of Applicant		

II. ORDER TO PAY OR FIX VALUE OF SERVICES

Based on the Findings of Fact set out in Section III, the Court ORDERS that the "Total Amount" stated on Line 4 below be:

- (Assigned Counsel) paid by the State of North Carolina to the payee above.
- (Public Defender/IDS Contractor) fixed as the value of legal services and other expenses of representation rendered by the applicant above.

1. Hours Approved By The Court	
2. Fees Allowed/Value Of Services Rendered	(Hours Approved x IDS Rate) = \$
3. Other Necessary Expenses Allowed By The Court	\$
4. TOTAL AMOUNT	\$

Date	Name Of Judge (Type Or Print)	Signature Of Judge
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III. FINDINGS OF FACT AND JUDGMENT

To enter judgment against a responsible person(s), the Court must make one of the following two findings and sign below:

- 1. This is a juvenile delinquency proceeding; the applicant is an attorney appointed to represent the juvenile in this proceeding under G.S. 7B-2000; and the juvenile has been adjudicated delinquent; or
- 2. This is an order to show cause in an undisciplined proceeding; the applicant is an attorney appointed to represent the juvenile in this proceeding under G.S. 7B-2000; and the juvenile has been held in contempt for failure to comply with the Court's undisciplined order.

After service of a summons on the responsible person(s) named below, and opportunity to be heard, the Court finds that the indigent juvenile named on the reverse requested and has been provided counsel and other necessary expenses of representation; that the applicant named on the reverse provided services and incurred expenses of which the money value is that stated in Section II on Line 4; and that the responsible person(s) named below is the parent, guardian or trustee of the juvenile, is financially able to pay the fees and expenses set out on the reverse, and should be held responsible for reimbursing the State for the same.

Therefore, it is ORDERED that the responsible person(s) shall reimburse the State the TOTAL AMOUNT stated in Section II on Line 4, by paying the same to the Clerk of Superior Court for transmittal to the State Treasurer. If that amount is not paid in full at the time of disposition, this judgment shall be docketed and the State of North Carolina shall then recover from the responsible person(s) that amount together with interest at the legal rate from the date of docketing until paid.

Name And Address Of Responsible Person 1	Social Security No. -
	<input type="checkbox"/> Has No Social Security No.
Name And Address Of Responsible Person 2	Social Security No. -
	<input type="checkbox"/> Has No Social Security No.

IV. SIGNATURE OF JUDGE

The foregoing ORDER TO PAY APPLICANT OR FIX VALUE OF SERVICES, FINDINGS and JUDGMENT shall be entered and filed this day in the office of the Clerk of Superior Court. The Judgment shall become effective as provided by law.

Date	Name Of Judge (Type Or Print)	Signature Of Presiding Judge
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V. DOCKETING - CSC USE ONLY

NOTE: Do not docket this judgment if, at the time of disposition, the responsible person(s) named above pays to the Clerk of Superior Court the "Total Amount" stated in Section II on Line 4. Docket this judgment at disposition if the responsible person(s) does not make such payment.

Date	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Judgment Docket Book And Page No.	Abstract No.	Amount Docketed \$
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(TYPE OR PRINT IN BLACK INK)

STATE OF NORTH CAROLINA

In The General Court Of Justice

- District Court Division
Superior Court Division
Before the Clerk

File No.

Additional File Nos.

County

Name Of Indigent Client

*Complete name, address and SSN of indigent respondent or responsible person(s) on side 2.

CIVIL CASE TRIAL LEVEL FEE APPLICATION ORDER FOR PAYMENT JUDGMENT AGAINST PARENT/GUARDIAN

G.S. Ch. 7A, Art. 36; G.S. Ch. 7B, Subch. I; G.S. 122C-268(d), -266(d)

NOTE: Use this form ONLY for civil cases at the trial level, including child support contempt cases that end in a finding of criminal contempt. DO NOT use this form for criminal cases, juvenile delinquency cases, or appeals.

INSTRUCTIONS: Applicant completes and signs all applicable portions of Section I. If no judgment is entered, trial judge completes and signs Section II only. If judgment is entered, trial judge completes but does not sign Section II, then completes Section III and signs Section IV.

I. APPLICATION

I, the undersigned assigned counsel public defender IDS contract counsel guardian ad litem make application for payment and reimbursement of necessary expenses incurred, or for determination of value of services rendered for the indigent.

ORIGINAL PROCEEDING AND DISPOSITION: In the applicable section below, check ONE box in each of the two columns. In column 2, check the box that describes the most recent disposition.

A. Appointed Attorneys ONLY (Complete B. below if you are a guardian ad litem.)

1. Original Proceeding

- Abuse/Neglect/Dependency
TPR
Competency
Civil Commitment
Child Support Contempt
Other Civil Contempt
Other:

2. Disposition (most recent disposition)

- Adjudicated Abused, Neglected, or Dependent
Initial Disposition Entered
Review Order Entered
Initial Permanency Planning Order Entered
Parental Rights Terminated
Declared Incompetent
Other:
Involuntary Commitment Upheld
Voluntary Commitment
Held in Civil Contempt
Held in Criminal Contempt
Dismissed
Discharged
None (Attorney Withdrew)

B. Guardians Ad Litem

1. Original Proceeding

- Abuse/Neglect/Dependency (Respondent GAL)
Abuse/Neglect/Dependency (Juvenile GAL, Program Conflict)
TPR (Respondent GAL)
DSS Initiated TPR (Juvenile GAL, Program Conflict)
Private TPR (Juvenile GAL) (charge to AOC)
Competency (Respondent GAL)
Other: (specify)

2. Disposition (most recent disposition)

- Adjudicated Abused, Neglected, or Dependent
Initial Disposition Entered
Review Order Entered
Initial Permanency Planning Order Entered
Parental Rights Terminated
Other:
Declared Incompetent
Dismissed
None (Attorney Withdrew)

COMPLETE FOR THIS FEE: (Attach detailed time sheets when required by judge. Time must be reported in decimals, not minutes.)

Table with columns: Beginning Date, Ending Date, Prior Total Fees, Disposition Date, Time In Court, Time In Court Waiting, Time Out Of Court, Total Time Claimed, Name Of Judge, Travel, Long Distance Telephone, Copying, Other, Total Expenses.

NOTE: In assigned counsel cases, the applicant is always the individual attorney. If payment is to be made to individual applicant, write "same" under payee and give applicant's taxpayer ID No.

Form fields for Name Of Applicant, Payee, Taxpayer ID No., Telephone No., Date, Signature Of Applicant, and Address.

II. ORDER TO PAY OR FIX VALUE OF SERVICES

Based on the Findings of Fact set out in Section III, the Court ORDERS that the "Total Amount" stated on Line 4 below be:

- (Assigned Counsel/GAL) paid by the State of North Carolina to the payee above.
(Public Defender/IDS Contractor) fixed as the value of legal services and other expenses of representation rendered by the applicant above.

Table with 4 rows: 1. Hours Approved By The Court, 2. Fees Allowed/Value Of Services Rendered, 3. Other Necessary Expenses Allowed By The Court, 4. TOTAL AMOUNT.

Form fields for Date, Name Of Judge (Type Or Print), and Signature Of Judge.

GETTING PAID

GETTING PAID FOR YOUR WORK IN APPOINTED CASES

December 2007

TO GET PAID FOR YOUR WORK, YOU NEED TO:

- Be set up as a vendor in the North Carolina Accounting System (NCAS); and
- Submit a fee application.

GETTING ESTABLISHED AS A VENDOR:

You will be established as a vendor once your first fee application arrives at IDS Financial Services. Your fee application should have the necessary information, including:

- The name and address of the payee: This will either be you as the applicant or your law firm.
- A taxpayer ID:
 - ✓ While you can use your social security number for this purpose, we strongly recommend obtaining and using a federal taxpayer ID.
 - ✓ You can obtain a federal taxpayer ID on-line for free. Go to <http://www.irs.gov/businesses/small/article/0,,id=102767,00.html>.

PAYMENT OPTIONS:

You are encouraged to receive your payments electronically:

- You can be set up for e-pay once you are an established vendor.
- To sign up for e-pay as a private appointed attorney, go to www.ncids.org, click on “Forms & Applications,” and then click on “Indigent Defense Attorney or Expert Electronic Payment Form.”
- The Office of State Controller will notify you of your payment by fax or email (at your selection).
 - ✓ The notification will include the client name or initials, case number, disposition date, and payment amount, so that you can reconcile the payment with your records.
 - ✓ Notification is generally sent on Monday and Wednesday evenings.
- The actual funds will be in your bank account within 3 business days of the notification.
- It is your responsibility to verify that the funds have actually been deposited and are available before you draw against them.

You can receive your payment by paper check:

- The check stub will include the client name or initials, case number, disposition date, and payment amount.
- Checks are generally mailed on Tuesday and Thursday afternoons.

1099 TAX NOTICES:

By January 31st of each year, IDS will send you a 1099 Tax Notice with your total earnings from the prior calendar year. The figure on your 1099 Tax Notice is reported to the IRS as taxable income, and combines payments for your fees and reimbursed expenses.

IF YOUR INFORMATION CHANGES:

- If you change firms, taxpayer ID, address, etc., putting the new information on a fee application is not sufficient to change your vendor set up.
- Please contact Donna Quay at 919.560.3380 or Donna.C.Quay@nccourts.org to change any such information.

RECORD KEEPING

RETENTION OF APPOINTED CASE FILES AND BILLING RECORDS

December 2007

RETENTION OF CASE FILES:

- **Ethics Rules:** Case file retention is governed by the Revised Rules of Professional Conduct. See RPC 209 (Jan. 12, 1996).
 - *General Rule:* The original file belongs to the client. Closed client files may be destroyed after a minimum of 6 years have passed since the conclusion of the representation.
 - ✓ Even after 6 years have passed, before a file is destroyed, a lawyer should identify any items in the file that belong to the client and return them or retain them in a secure place until retrieved or deemed abandoned.
 - ✓ If closed files are destroyed, the method of destruction must preserve client confidentiality.
 - ✓ A record must be maintained of all destroyed client files in accordance with RPC 16 (Oct. 24, 1986).
 - *Exception:* If the client gives written consent, a closed file may be destroyed at any time.

- **IDS Recommendations: A More Stringent Approach to Case File Retention:**
 - *Cases Resulting in Convictions of Class A Felonies:* IDS recommends that these files should be retained indefinitely, even if the client consents to their destruction.
 - *Cases Resulting in Convictions in Superior Court of Offenses Lower than Class A Felonies:* IDS recommends that these files should not be destroyed before 6 years have elapsed from the date of disposition, even if the client consents to earlier destruction.
 - *Juvenile Delinquency Files for any Class A-E Felony:* IDS recommends that these files should not be destroyed before 6 years have elapsed from the date of disposition, even if the client consents to earlier destruction.
 - *Abuse, Neglect, or Dependency Cases and Termination of Parental Rights Cases:* IDS recommends that these files should be retained for 6 years after the conclusion of the case, or indefinitely if the parent had an appointed guardian ad litem, even if the client consents to their destruction.
 - *Other Cases Disposed in District Court:* Even if the client consents to earlier destruction, IDS recommends that attorneys still maintain these files, including files for felonies disposed in district court and special proceedings, for a minimum of 2 years.

RETENTION OF BILLING RECORDS:

- IDS recommends that appointed attorneys place a copy of their fee application, preferably one that has been signed by the presiding judge, as well as their supporting time sheets and any expense receipts in the client's file. This will ensure that those documents are available for resubmission if they are inadvertently lost by the judge, clerk's office, or IDS Financial Services.
- Appointed attorneys should track all payments received from IDS and reconcile those payments (and the payment reference numbers) against the attorney's billing records.

- IDS recommends that appointed attorneys retain a copy of their fee application and supporting time sheets for 6 years after the conclusion of the representation, along with the rest of the client's case file. If the client's case file is destroyed in accordance with the Ethics Rules or recommendations above sooner than 3 years after the date of payment in the case, IDS recommends not destroying the fee applications and time sheets at that time and maintaining them for a minimum of 3 years in accordance with IRS regulations.

FREQUENTLY ASKED QUESTIONS

FREQUENTLY ASKED QUESTIONS ABOUT PAYMENTS IN APPOINTED CASES

(NON-CAPITAL AND NON-CRIMINAL CASES AT THE TRIAL LEVEL)

December 2007

QU: IF I HAVE NOT BEEN PAID FOR A FEE APPLICATION, WHAT SHOULD I DO FIRST?

- Please wait at least 30 days after you submitted the fee application to the Judge or Clerk to check on its status.
- After 30 days have passed, check the IDS website for the most recent update on our processing and payment schedule. (Go to www.ncids.org and click on “News & Updates.”)
- Check with your clerk’s office to make sure they forwarded the fee application to IDS Financial Services and that it has not been returned for correction or completion. Clerk’s offices vary as to how quickly they get returned fee applications to the attorney.

QU: IF I SUBMITTED A FEE APPLICATION MORE THAN 30 DAYS AGO AND STILL HAVE NOT BEEN PAID, WHAT SHOULD I DO NEXT?

- If you are checking on a single fee application, please call the Accounting Specialist in our Raleigh Financial Services Office who is assigned to your county.
 - ✓ To obtain the name and contact information for that person, go to www.ncids.org and click on “IDS Office” and then “Financial Services.”
 - ✓ That person will verify in the North Carolina Accounting System (NCAS) that there has been no payment.
 - ✓ They can also tell you if the payment has been processed but is awaiting the next check run, which will typically mean payment will issue within the next few days.
 - ✓ If there is no record of a past or impending payment, they will direct you to ask the clerk’s office to resubmit the fee application.
- If you are checking on multiple fee applications, please send an email or fax to the Accounting Specialist who is assigned to your county, so they can take the time to research our records without disrupting their regular work. Please allow several days for a response to this kind of inquiry.
- If your request is time consuming, we may choose to send you a list of all of your payments in a specified time period (called a “vendor report”) so that you can check the payments against your records.
- If you are unable to reach your assigned Accounting Specialist, please contact the Accounting Team Leader in our Raleigh office, Priscilla Sanders, at 919-789-3679 or Priscilla.D.Sanders@nccourts.org, or the Accounts Payable Supervisor, Patty Barbour, at 919-789-3615 or Patty.A.Barbour@nccourts.org.

QU: IF I HAVE GENERAL QUESTIONS OR CONCERNS ABOUT HOW FEE APPLICATIONS ARE BEING PROCESSED, WHO CAN I CONTACT?

- If you have general questions or concerns, please contact Elisa Wolper, IDS Fiscal Officer, at 919-560-3380 or Elisa.Wolper@nccourts.org.

QU: IF I HAVE QUESTIONS ABOUT E-PAYMENTS, WHO CAN I CONTACT?

- If you have questions about electronic payment, please contact Donna Quay in IDS' Durham office at 919-560-3380 or Donna.C.Quay@nccourts.org.

QU: WHAT TYPE OF QUESTIONS SHOULD I DIRECT TO MY LOCAL CLERK'S OFFICE?

- Clerk's offices vary in how they handle fee applications, but they can tell you how frequently they mail fee applications to Raleigh for payment, whether their files note when a particular fee application was sent for payment, etc.

THE NORTH CAROLINA COURT SYSTEM
OFFICE OF INDIGENT DEFENSE SERVICES

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OFFICE OF INDIGENT DEFENSE SERVICES

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