

MANDATORY RULES FOR FEE SHIFTING CASES

If a party anticipates that it may, for any reason other than as a sanction under the Federal Rules of Civil Procedure, seek an award of fees from the opposing party pursuant to a statute or common law or an agreement between the parties, then the party must maintain a record of accumulated fees and expenses pursuant to the rules listed below. Submission of time records that comply with the following rules is a prerequisite to any such award.

- (1) Counsel must maintain a separate record of time with a complete and accurate accounting of all time devoted to this particular action (to the nearest 1/10 of an hour), recorded contemporaneously with the time expended for each attorney and with sufficient detail to disclose the nature of the work performed in the action (e.g., not just “research” but the specific matter being researched; not just “conference” but identity of persons conferring and general subject matter of the conference).
- (2) If a claim will be made for services performed by any person not a member of the bar, a separate time record shall be maintained for each such individual in accordance with (1) above.
- (3) Counsel must review and verify all attorney and non-attorney time records no less than once per month.
- (4) Although the Court does not require counsel to file a copy of the time records prior to a request for a fee, counsel may file with the Clerk of the Court either a copy of the time record created pursuant to (1) above, or a separately prepared document setting forth the information described in (1) above. If counsel elects to file reports, they should be filed by the 15th day of the month following the month in which the work was performed during the pendency of the case. If counsel elects to file time reports, the material filed may be filed under seal, subject to further Court order, by placing the reports in a sealed envelope with the case name and number along with “ATTORNEY TIME RECORDS —FILE UNDER SEAL” written on the outside of the envelope. If the

material is filed under seal, then the filing party must, at the time of such filing, also file (and serve a copy on opposing parties or their counsel) a document stating the total of the hours represented by the sealed filing, allocated as to total attorney hours and total non-attorney hours included in the current filing under seal. Upon the conclusion of the case, without further order, the seal will be lifted as to all attorney fee materials filed under seal.

- (5) A petition for attorney fees shall be accompanied **by counsel's certification** that all time records are accurate; that such records were prepared contemporaneously with the performance of the work for which the fees are claimed; and that counsel reviewed and verified all attorney and non-attorney time records no less frequently than once per month.

***Take Notice:* Failure to comply with the foregoing requirements normally will result in denial of a request for attorneys' fees.**