

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

_____	x	
	x	GENERAL ORDER
In the matter of:	x	
	x	
Adoption of the Professional Liability Insurance	x	
Reimbursement Program Plan for Court Employees	x	
_____	x	

By resolution of the Board of Judges for the United States Bankruptcy Court for the Southern District of New York, the annexed Professional Liability Insurance Reimbursement Program Plan for Court Employees (the "Plan attached") is now adopted for the United States Bankruptcy Court for the Southern District of New York. All eligible court employees claims' for professional liability are subject to the guidelines provided by the Plan attached.

NOW, it is

ORDERED, that the Plan attached, and the same hereby is, adopted, effective May 24 , 2000.

Dated: New York, New York
May 24, 1999

/s/ Stuart M. Bernstein
Stuart M. Bernstein
Chief Bankruptcy Judge

United States Bankruptcy Court
Southern District of New York

**Professional Liability Insurance
Reimbursement Program Plan
for Court Employees**

- I. Eligible employees may be reimbursed for a portion of the cost of professional liability insurance subject to these guidelines.
- II. Authority: Pub. L. No. 104-208, § 636 (1996); as amended by Pub. L. No. 105-277, § 644 (1998); as amended by Pub. L. No. 106-58, § 542 (1999); *Proceedings of the Judicial Conference of the United States* (JCUS-SEP 99, pp. 66-67).
- III. Employees Eligible for Reimbursement:
 - A. The following employees are eligible to claim reimbursement pursuant to this policy:
 1. Court unit executives;
 2. "Management officials" designated by the court unit executives. "Management official" means an individual employed in a position the duties and responsibilities of which require or authorize the employee to formulate, determine, or influence the policies of the court. See 5 U.S.C. § 7103(a)(11).
 3. "Supervisors" designated by the court unit executives. "Supervisor" means an individual having authority to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline or remove employees to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of an independent judgment. See 5 U.S.C. § 7103(a)(10).
 - B. Designation of an employee as eligible for reimbursement is not intended to recommend or discourage the purchase of a policy by an employee. Each employee must evaluate the risks related to his or her employment and compare the costs and benefits associated with such insurance.
 - C. No employee of the court should endorse or recommend a policy offered by any company or association, but employees may provide information as to those insurers

known to provide policies of this type to enable an employee to request information about the policies offered.

- IV. "Definition of Professional Liability Insurance": Insurance which provides coverage for the following:
- A. Legal liability for damages due to injuries to other persons, damage to their property, or other damage or loss to such other persons (including the expenses of litigation and settlement) resulting from or arising out of any tortious act, error or omission of the covered individual (whether common law, statutory or constitutional) while in the performance of such individual's duties as a qualified employee; and
 - B. The cost of legal representation for the covered individual in connection with any administrative or judicial proceeding (including any investigation or disciplinary proceeding) relating to any act, error or omission of the covered individual while in the performance of such individual's official duties as a qualified employee, and other legal costs and fees relating to such administrative or judicial proceeding.
- V. Procedures for claiming reimbursement: Reimbursement requests must be submitted in writing to the Clerk of the Bankruptcy Court and must be accompanied by a copy of the policy premium notice or statement of account showing the annual premium amount and the period covered by the policy. The request should indicate that the claim is being made pursuant to Pub. L. No. 104-208, § 636 (1996); as amended by Pub. L. No. 105-277, § 644 (1998); as amended by Pub. L. No. 106-58, § 542 (1999); and is in compliance with criteria established by the Judicial Conference and the Director of the Administrative Office.
- VI. The Clerk of the Bankruptcy Court shall maintain records of all reimbursement payments.
- VII. This Plan shall apply to insurance premiums paid during fiscal year 2000 (October 1, 1999 to September 30, 2000) and subsequent years, subject to the availability of funds.
- VIII. The maximum reimbursement for fiscal year 2000 is one-half the annual cost of the policy or \$150 per year, whichever is less.

Adopted by the Board of Judges, May 24, 2000

United States Bankruptcy Court
Southern District of New York

**Professional Liability Insurance
Reimbursement Program Plan
for Court Employees**

Form for Reimbursement Claim

To: Clerk of the Bankruptcy Court

From: _____

Subject: Claim for Reimbursement for Professional Liability Insurance

I hereby request reimbursement for the cost of professional liability insurance in the amount of
\$ _____.

The policy provides coverage from _____ to _____.
A copy of the policy premium notice or statement of account showing the annual premium amount and
the period covered by the policy is attached to this claim.

This claim is being made pursuant to Pub. L. No. 104-208, § 636 (1996); as amended by Pub.
L. No. 105-277, § 644 (1998); as amended by Pub. L. No. 106-58, § 542 (1999); and is in
compliance with criteria established by the Judicial Conference and the Director of the Administrative
Office.

Signature _____ Date _____

Attachment

____ Approved ____ Disapproved _____

Unit Executive

Fact Sheet

Administrative Office of the United States Courts

Professional Liability Insurance Reimbursement Program for Court Employees

Authorizing Legislation:	Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999, Pub. L. No. 105-277, § 644 (1998), as amended, Treasury, Postal Service, and General Government Appropriations Act for Fiscal Year 2000, Pub. L. No. 106-58, § 642 (1999).
Eligibility:	All court unit executives: all probation and pretrial services officers and officer assistants; and such other “managers” and “supervisors” in the court units who are designated in accordance with Judicial Conference guidelines.
Effective date:	Insurance Premiums paid during fiscal year 2000 (October 1, 1999 to September 30, 2000) and forward.
Amount:	One-half the annual policy cost or \$150 per year, whichever is less.
Definition of “professional liability insurance”:	Insurance which provides coverage for (A) legal liability for damages due to injuries to other persons, damage to their property, or other damage or loss to such other persons (including the expenses of litigation and settlement) resulting from or arising out of any tortious act, error, or omission of the covered individual (whether common law, statutory, or constitutional) while in the performance of such individual’s official duties as a qualified employee; and (B) the cost of legal representation for the covered individual in connection with any administrative or judicial proceeding (including any investigation or disciplinary proceeding) relating to any act, error, or omission of the covered individual while in the performance of such individual’s official duties as a qualified employee, and other legal costs and fees relating to such administrative or judicial proceeding.
Reimbursement Procedures:	Reimbursement requests must be submitted in writing to the clerk of the district court for payment and must be accompanied by a copy of the policy premium notice or statement of account showing the annual premium amount and the period covered by the policy. The reimbursement request should indicate that the claim for reimbursement is being made pursuant to Pub. L. No. 104-208, § 636 (1996), as amended by Pub. L. No. 105-277, § 644 (1998), as amended by Pub. L. No. 106-58, § 542 (1999), and is in compliance with the criteria established by the Judicial Conference and the Director of the Administrative Office.

The clerk of court to whom the request is submitted should ensure that the required documentation has been submitted and that the individual requesting reimbursement is qualified to participate in the professional liability insurance reimbursement program.

Funding: All payments will be charged to a general authorization maintained by the Administrative Office, as follows:

District Courts: 00 (or current FY)-092000-DXXBBCX-(court's cost code)-1229
Bankruptcy Courts: 00 (or current FY)-092000-BXXBBCX-(court's cost code)-1229
Courts of Appeals: 00 (or current FY)-092000-AXXBBCX-(court's cost code)-1229
Probation/Pretrial
Services Offices: 00 (or current FY)-092000-PXXBBCX-(office's cost code)-1229

Record keeping: Maintained locally; measures should be taken to prevent against the payment of multiple claims.

Additional Information: Contact your servicing personnel representative in the Court Services Branch of the Human Resources Division at 202-502-3180 for substantive questions about the benefit. Contact Mike Eisert in the Accounting and Financial Systems Division at 202-502-2207 for questions about reimbursement procedures.

Questions and Answers
Administrative Office of the United States Courts
Professional Liability Insurance Reimbursement Program for Court Employees

- 1. Do I need professional liability insurance?** This is an individual decision based on personal and family considerations. In arriving at your decision, you may wish to consult publications such as the *Federal Manager's Guide to Liability*. (Information about the the *Federal Manager's Guide to Liability* can be found at <http://www.fpmi.com>.) In addition, the issue of risk was recently addressed in an opinion issued by the Deputy General Counsel of the Administrative Office, which stated: "In short, I believe judges and other judiciary managers have little exposure even in the personnel field. I nonetheless recognize that the purchase of liability insurance is a personal decision, and . . . a judge certainly would not be making a mistake in deciding to buy the insurance in an abundance of caution."
- 2. How are the terms "supervisor" and "management official" defined in section 7103(a) of title 5, United States Code?**

"Supervisor" is defined as "an individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment."

"Management official" is defined as "an individual employed by an agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency."
- 3. Can an employee be reimbursed for the cost of a professional liability insurance policy which was purchased prior to the October 1, 2000?** An employee will receive the full amount of reimbursement (one-half the cost or \$150, whichever is less) for any insurance premium which is paid during fiscal year 2000 (between October 1, 1999, and September 30, 2000). Subsequent years will be treated likewise, subject to the availability of funds.
- 4. Can you recommend some companies that currently sell professional liability insurance?** The Administrative Office cannot recommend one company over another. While we have been advised that professional liability insurance is available to federal court officials through certain companies, we have not evaluated the cost or coverage limits of the policies offered by the companies. It is our understanding that certain court employees have obtained professional liability insurance coverage by attaching riders to their home owners' insurance policies or by purchasing "umbrella" policies. You may wish to explore this and other options with your insurance agent.

5. **The Judicial Conference guidelines require the courts to have a “written” professional liability insurance program plan. What does this mean?** The written document need not be extensive, but it should set forth the basic criteria by which “managers” and “supervisors” will be designated to participate in the program as well as the limitations on the amount of reimbursement.
6. **The Judicial Conference guidelines require that “[t]o the extent possible, co-located courts of appeals, district courts, and bankruptcy courts should endeavor to develop compatible programs.” What does this mean?** The main concern is that similarly-situated employees within co-located courts be treated equitably for purposes of the “manager” and “supervisor” designations. If possible, specific types of employees, such as systems managers or team leaders, should be treated the same in co-located courts.
7. **What if the cost of insurance increases in future years?** The Judicial Conference’s Committee on Judicial Resources has asked the Administrative Office to monitor the cost of professional liability insurance to ensure that future spending plans of the judiciary include sufficient funds to cover the cost of the program. The Administrative Office also will serve as a clearing house for information concerning the companies that offer professional liability insurance.

Model Professional Liability Insurance Reimbursement Program Plan

- ¶1 Eligible employees may be reimbursed for a portion of the cost of professional liability insurance subject to these guidelines.
- ¶2 Authority: Pub. L. No. 104-208, § 636 (1996); as amended by Pub. L. No. 105-277, § 644 (1998); as amended by Pub. L. No. 106-58, § 542(1999); *Proceedings of the Judicial Conference of the United States* (JCUS-SEP 99, pp. 66-67).
- ¶3 Employees Eligible for Reimbursement:
- A. The following employees are eligible to claim reimbursement pursuant to this policy:
1. Court unit executives;
 2. Probation officers and probation officer assistants;
 3. Pretrial services officers and pretrial services officer assistants;
 4. “Management officials” designated by the court unit executives.
“Management official” means an individual employed in a position the duties and responsibilities of which require or authorize the employee to formulate, determine, or influence the policies of the court. See 5 U.S.C. § 7103(a)(11).
 5. “Supervisors” designated by the court unit executives.
“Supervisor” means an individual having authority to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment. See 5 U.S.C. § 7103(a)(10).
- B. Designation of an employee as eligible for reimbursement is not intended to recommend or discourage the purchase of a policy by an employee. Each employee must evaluate the risks related to his or her employment and compare the costs and benefits associated with such insurance.
- C. No employee of the court should endorse or recommend a policy offered by any company or association, but employees may provide information as to those insurers known to provide policies of this type to enable an employee to request information about the policies offered.
- ¶4 Definition of “Professional Liability Insurance”: Insurance which provides coverage for:
- A. Legal liability for damages due to injuries to other persons, damage to their property, or other damage or loss to such other persons (including the expenses of litigation and settlement) resulting from or arising out of any tortious act, error, or omission of the covered individual (whether common law, statutory or constitutional) while ion the performance of such individual’s duties as a qualified employee; and
- B. The cost of legal representation for the covered individual in connection with any administrative or judicial proceeding (including any investigation or disciplinary

proceeding) relating to any act, error, or omission of the covered individual while in the performance of such individual's official duties as a qualified employee, and other legal costs and fees relating to such administrative or judicial proceeding.

¶5 Procedures for claiming reimbursement: Reimbursement requests must be submitted in writing to the clerk of the district court for payment and must be accompanied by a copy of the policy premium notice or statement of account showing the annual premium amount and the period covered by the policy. The request should indicate that the claim is being made pursuant to Pub. L. No. 104-208, § 636 (1996); as amended by Pub. L. No. 105-277, § 644 (1998); as amended by Pub. L. No. 106-58, § 542 (1999), and is in compliance with criteria established by the Judicial Conference and the Director of the Administrative Office.

¶6. The clerk of the district court shall maintain records of all reimbursement payments.

**Professional Liability Insurance Reimbursement Program
Model Form for Reimbursement Claim**

To: Clerk of the District Court (Reimbursing Officer)
From: (employee name)
Subject: Claim for Reimbursement for Professional Liability Insurance

I hereby request reimbursement for the cost of professional liability insurance in the amount of \$ _____.

This policy provides coverage from _____ to _____. A copy of the policy premium
(date) (date)
notice or statement of account showing the annual premium amount and the period covered by the policy is attached to this claim.

This claim is being made pursuant to Pub. L. No. 104-208, § 636 (1996); as amended by Pub. L. No. 105-277, § 644 (1998); as amended by Pub. L. No. 106-58, § 542(1999), and is in compliance with criteria established by the Judicial Conference and the Director of the Administrative Office.

Signature _____ Date _____

Attachment