

§ 25.41

RULES OF CHIEF JUDGE

statement on the basis of the appeal, together with any supporting papers. The Chief Administrator shall review these statements, make any required adjustments, and notify the employee of his or her action.

(b) If the appeal has not been resolved to the satisfaction of the employee, the employee or the employee's representative may then appeal to the Classification Review Board within 60 days of receipt of notice of the action of the Chief Administrator of the Courts. This review board shall consist of three members, one appointed by the President of the State Civil Service Commission, one appointed by the State Comptroller, and a chairman, to be appointed by the Chairman of the Public Employment Relations Board. The Classification Review Board shall determine each appeal. The Classification Review Board shall consider all material submitted by the employee or the employee's representative, and shall send a copy of this material to the Chief Administrator, who shall be given a reasonable opportunity to respond. The Classification Review Board may, in its discretion, hold a hearing with relation to any aspect of any appeal.

(c) Any employee organization may bring an appeal pursuant to this procedure on behalf of any member or group of members.

(d) The Classification Review Board shall have jurisdiction to review appeals only from classifications and allocations determined pursuant to the classification plan established as set forth in subdivision (a) of this section.

(e) A determination of the Classification Review Board shall constitute an administrative order; subject, however, to review in a proceeding brought by either the employee, an employee organization, or the Chief Administrator pursuant to article 78 of the CPLR.

(f) This section shall apply only to appeals pending before the Classification Review Board as of the effective date of this subdivision [January 1, 1987].

§§ 25.42 to 25.45. [Renumbered 25.38 to 25.41.]

PART 26—FILING OF STATEMENTS PURSUANT TO JUDICIARY LAW § 35a

§ 26.1. General

(a) This section applies to any appointments made by a court after September 1, 1975, to positions

including but not limited to appraiser, special guardian, guardian *ad litem*, general guardian, referee, counsel, special referee, special examiner, conservator, committee of incompetent or receiver, and in connection with which fees of more than \$200 for the services performed have been awarded.

(b) This section shall not apply to attorneys appointed by a court to represent indigent persons pursuant to article 18-B of the County Law, section 35 of the Judiciary Law, or section 407 of the Surrogate's Court Procedure Act, or to law guardians appointed pursuant to the Family Court Act, or to appointments made prior to September 1, 1975; but in the case of referees appointed pursuant to section 78.25 of the Mental Hygiene Law, a statement shall be filed with the administrative office for the courts, annually, by the judge or justice who approved compensation for those services.

(c) Appointments made before September 1, 1975 shall continue to be governed by the rules of former Part 26 of these rules.

County Law, see McKinney's Book 11.

Judiciary Law, see McKinney's Book 29.

Family Court Act, see McKinney's Book 29A, Part 1.

Mental Hygiene Law, see McKinney's Book 34A.

SCPA, see McKinney's Book 58A.

FORMS

Motion by defendant in criminal action requesting assignment of counsel, see West's McKinney's Forms, CPL, § 210.15, Forms 1 to 4.

§ 26.2. Filing of Statements by Judges

Any judge or justice who has approved compensation of more than \$200 to a court appointee shall file with the administrative office for the courts, on the first business day of the week following approval, a statement of compensation required by this section.

§ 26.3. Judge's Statement of Approval of Compensation; Contents

The statement of approval of compensation shall be in substantially the following form, and shall contain the following specific instructions for its completion on the reverse side thereof.

§ 26.3

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INSTRUCTIONS FOR COMPLETING STATEMENT OF APPROVAL OF COMPENSATION

(This form should be completed only if the fee is more than \$200.) (OCA-830)—Revised Oct. 1979

- Item 1 Enter the specific title of the court, e.g., Supreme Court, Surrogate's Court, etc., and enter the name of the county in which the appointing court is located.
Item 2 Name and Address: Enter name and mailing address of Appointee. Social Security Number: Enter social security number of Appointee. Occupation: Check appropriate box. If "other" please specify, e.g., physician, accountant, etc. Firm Name: Appointee's firm name must be entered here regardless of whether a member, partner, associate, counsel or employee and regardless of whether or not any fee or allowance received is to be retained or is to go to the firm. Federal Employer No.: Enter firm's Internal Revenue Service Federal Employer's Identification Number. Where no number is available, enter "None". Phone No.: Enter appointee's phone number.
Item 3 Enter date of appointment—month, day and year.
Item 4 Enter either the docket, file, index number or any other identification assigned by the court to this matter. If there is not number assigned, enter "None".
Item 5 Enter the title of the action or proceeding in which appointed, e.g., Smith v. Jones, Matter of Adams, etc. Please limit the title to 25 spaces. If it is a multiparty action, name only the first party, e.g., Smith et al v. Jones et al.
Complete either item 6 or 6A, as appropriate.
Item 6 Enter the first initial and full last name of the judge or justice who made the appointment. If made by the judge of a multi-judge court, enter "the Court".
Item 6A Enter the first initial and full last name of the judge or justice who made the designation.
Item 7 Enter the name of the person or interest represented. If there are multiple parties, enter the specific name of the client. If Appointee represents all plaintiffs or defendants in a multi-party case, state "all plaintiffs." If he represents the court, state "the Court." Please limit entry to 15 spaces.
Item 8 Check the appropriate box for the nature of appointment. If it is not listed, check "z" and specify the capacity in which appointed, e.g., "psychiatrist", "medical expert", "fingerprint expert", etc.
Item 9 Enter in appropriate box whether or not the proceeding was contested.
Item 10 Enter the gross dollar value of the action, proceeding or estate before the court.
Item 11 Estimate the time spent by the appointee on this case, such time being the basis for the fee entered in item 12. Do not include waiting time in the number of hours shown for the time actually spent in court.
Item 12 Enter the amount of the net fee or allowance excluding disbursements, as finally approved.
Item 13 The Judge or Justice approving the fee must enter the date fee was approved and sign the statement. If the compensation is specified or fixed by statute, indicate the section of the statute authorizing payment.

COURTS should address ALL STATEMENTS to: Office of Court Administration Post Office Box 3171 Church Street Station New York, N.Y. 10008

§ 26.4. Fixing Amount of Compensation

The judge or justice approving compensation shall certify that the compensation approved is fixed by statute or, if not, is a reasonable award for the

services rendered by the appointee. If the fee for services performed is fixed by statute, the judge or justice shall specify the statutory fee and the sec-

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tion of the statute authorizing the payment of the fee.

§ 26.5. Request for Information Regarding Filed Statements

A request for information regarding a filed statement must be made to the Office of Court Administration, 270 Broadway, Room 1106, New York, N.Y., 10007, in writing, specifying the information desired. The social security number of the appointee should be included in the request if available.

PART 27—COLLECTIVE NEGOTIATIONS WITHIN THE UNIFIED COURT SYSTEM

§§ 27.1 to 27.6. [Repealed]

PART 28—ALTERNATIVE METHOD OF DISPUTE RESOLUTION BY ARBITRATION

§ 28.1. Definitions

(a) The words "panel of arbitrators" or "panel" in this Part shall mean: (1) a group of three attorneys chosen to serve as arbitrators by the arbitration commissioner pursuant to section 28.4 of this Part; or (2) a single attorney assigned by the arbitration commissioner, as the Chief Administrator of the Courts, (hereinafter denominated the Chief Administrator), shall designate from time to time in a particular county or court; or (3) a single arbitrator in the event the parties, by stipulation, provide for arbitration before a single arbitrator in those cases where a panel of three arbitrators otherwise is required.

(b) The term "chairperson" shall mean the attorney so designated by the arbitration commissioner pursuant to section 28.4 of this Part, or the single arbitrator assigned by the arbitration commissioner.

§ 28.2. Mandatory Submission of Actions to Arbitration

(a) The Chief Administrator may establish in any trial court in any county the arbitration program authorized by this Part.

(b) In each county where an arbitration program is established by order of the Chief Administrator, all civil actions for a sum of money only, except those commenced in small claims parts and not subsequently transferred to a regular part of court, that are noticed for trial or commenced in the Supreme Court, County Court, the Civil Court of the City of New York, a District Court or a City Court, on or after the effective date of the order where recovery sought for each cause of action is \$6,000 or less, or such other sum as may be authorized by

law, exclusive of costs and interest, shall be heard and decided by a panel of arbitrators. The Chief Administrator may also, at any time, upon the establishment of the program in any particular court or county or thereafter, provide for the submission to arbitration of actions seeking recovery of such sums, that are pending for trial in those courts on the effective date of the order.

(c) In addition, upon stipulation filed with the clerk of the court where the action was commenced or, if the case was transferred, the clerk of the court to which it has been transferred, any civil action for a sum of money only, pending or thereafter commenced in such courts, including actions removed to a court of limited jurisdiction from the Supreme Court pursuant to CPLR 325(d), regardless of the amount in controversy, shall be arbitrated, and in any such action the arbitration award shall not be limited to \$6,000 exclusive of costs and interest, or to the monetary jurisdiction of the court. Any stipulation pursuant to this section may set forth agreed facts, defenses waived or similar terms, and to that extent shall replace the pleadings.

(d) In any action subject to arbitration under these rules or submitted to arbitration by stipulation, the arbitration panel shall have jurisdiction of any counter-claim or crossclaim for a sum of money only that has been interposed, without regard to amount.

(e) All actions subject to arbitration shall be placed on a separate calendar known as the arbitration calendar, in the order of filing of the note of issue, notice of trial or stipulation of submission, except that where a defendant is in default, the plaintiff may seek a default judgment pursuant to the provisions of CPLR 3215.

(f) The appropriate administrative judge, with the approval of the Deputy Chief Administrator, may direct a pretrial calendar hearing by the court of actions pending on the arbitration calendar. If an action is not settled or dismissed, or judgment by default is not directed upon the hearing, it shall be processed thereafter in accordance with the provisions of this Part.

CPLR, see McKinney's Book 7B.

§ 28.3. Arbitration Commissioner

(a) The Chief Administrator shall designate, in each county where arbitration is established pursuant to this Part, an arbitration commissioner. The compensation, if any, payable to a commissioner, other than a full time public official or employee who shall receive no compensation as such commissioner, shall be determined by the Chief Administrator within the appropriation made available for that purpose.