

ALABAMA  
ATTORNEY GENERAL'S OFFICE

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INFORMATION AND INSTRUCTION PACKET  
FOR  
MANAGING ATTORNEYS

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(Revised October 1, 2024)

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## ATTACHMENT

INFORMATION AND INSTRUCTION PACKET FOR DEPUTY ATTORNEYS GENERAL



STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

STEVE MARSHALL  
ATTORNEY GENERAL

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MONTGOMERY, AL 36130  
(334) 242-7300  
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**MEMORANDUM**

**TO:** State Departments, Boards, Agencies, Commissions and Institutions

**FROM:** Steve Marshall  
Attorney General

**DATE:** October 1, 2024

**RE:** Outside Deputy Attorney General Appointments — October 2024 Update

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Attached to this Memorandum is a policy statement reflecting policies and procedures of the Attorney General for handling litigation and legal services by outside counsel.

Please take note of the following specific procedures:

If it is determined that your Department or Agency does not have the capability to handle a matter requiring legal services, the matter must be referred to the Office of the Attorney General for determination of whether this Office will handle the matter. All requests for assistance to provide legal services must be electronically submitted by the requesting Agency through the Attorney General's online submission process contained on the website or by utilizing the attached "Request for Legal Assistance" form and must be sent [civilforms@AlabamaAG.gov](mailto:civilforms@AlabamaAG.gov). Generally, appointments are made on a case-by-case basis only. Once a decision has been made to refer a case to outside counsel, an attorney in your Department or this Office will be designated as Managing Attorney for the particular matter. If there is a need for more than one law firm to represent the Department in a given matter, an attorney in each firm must be appointed in writing and approved before undertaking any work.

Each outside counsel will be provided a copy of the Attorney General's policies and procedures, as well as the instructions for the submission of all invoices for services rendered. As you know, a fee letter from the Governor or the Governor's designee is required in order for the attorney to be reimbursed at an hourly rate in excess of \$195.00. A paralegal rate in excess of \$65.00 per hour also requires approval and a fee letter. A request for a fee letter is forwarded to the Governor's Legal Advisor upon issuance of the appointment letter. A copy of such approval will be sent to this Office.

Generally, the chief counsel/general counsel for a Department having in-house counsel will be the Managing Attorney for matters referred to outside counsel for that Department. For Departments not having in-house counsel, a Managing Attorney will be designated from the Office of the Attorney General. It is the responsibility of the Managing Attorney to carefully review all bills submitted to ensure compliance with the policies and procedures and the approved billing rates, and to sign the standard invoice cover sheet.

Independently of the DAG appointment process, the Department will need to procure a legal services contract that complies with all applicable laws. Since the 1995 legislative session, Alabama law has required all legal services contracts (except highway condemnation cases) to be submitted to the Legislative Contract Review Committee. Please begin the process of procuring a legal services contract promptly upon appointment of outside counsel to ensure processing legal invoices.

In summary:

If your Department or Agency's in-house counsel can handle the matter, there is no reason to consider appointing outside counsel, and no report to the Contract Review Committee is required.

If your Department's legal staff cannot handle a litigation matter, and you request assistance from this Office, and one of our attorneys is assigned to the matter, no report will be required.

If you request assistance and an outside (non-state) attorney is appointed, the appointment will be made by this Office using our appointment letter contract and you must submit the contract to the Contract Review Committee (except highway condemnation cases). You will immediately be given a copy of the letter contract, and you will be responsible for ensuring it is properly submitted to and reviewed by the Contract Review Committee.

The submission of quarterly reports of cases assigned to Deputy Attorneys General is an additional responsibility of the Managing Attorney. Each Managing Attorney will be responsible for reporting quarterly at the following website:

<https://www.alabamaag.gov/dag-reporting/> and providing updated status information for each case on a quarterly basis. Once the case is resolved, the Managing Attorney must submit a final report for the case.

The reports are due quarterly according to the fiscal calendar as follows:

**1st Quarter:** January 15th (reporting period October — December)

**2nd Quarter:** April 15th (reporting period January — March)

**3rd Quarter:** July 15th (reporting period April — June)

**4th Quarter:** October 15th (reporting period July — September)

We appreciate your cooperation in implementing these policies and procedures. Please direct questions to Brad Chynoweth, First Assistant Civil Chief, at 334-242-7997.

**ALABAMA  
ATTORNEY GENERAL'S OFFICE**

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**INFORMATION AND INSTRUCTION PACKET  
FOR  
DEPUTY ATTORNEYS GENERAL**

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**(Revised October 1, 2024)**

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**POLICIES AND PROCEDURES OF THE ATTORNEY GENERAL FOR  
HANDLING OF LITIGATION AND PAYMENT OF FEES AND  
DISBURSEMENTS (Revised October 1, 2024)**

**GENERAL**

The Office of the Attorney General is committed to providing and coordinating quality legal services for the State of Alabama and the various Departments, agencies, commissions, boards, etc. (“the Departments”) for which this Office is responsible for providing such services.

At the same time, the Attorney General is equally concerned with the efficiency and cost of the services provided. To that end, the Attorney General has developed the following policies and procedures for the handling of litigation and other legal services and the submission of bills for fees and disbursements in connection therewith.

**APPOINTMENT OF OUTSIDE COUNSEL**

It is the policy of the Attorney General that, to the extent feasible, Assistant Attorneys General or Deputy Attorneys General assigned to a Department will provide all legal services to such Department. If a matter arises which is beyond the capability of in-house counsel because of scope, complexity, or the need for specialized legal expertise (or if the Department does not have in-house counsel), such matter will be referred to the Office of the Attorney General for determining whether this Office has the capability or the expertise needed to handle the matter. (Such referral may contain the name of outside counsel the Department recommends in the event this Office determines that such outside counsel should be appointed.)

If it is determined that neither the Department nor this Office is in a position to handle a particular matter, the Attorney General will appoint competent outside counsel and will notify such counsel and the Department of such an appointment.



In some instances, Departments may contract with or appoint attorneys for the provision of non-litigation legal services on an on-going basis. Litigation matters will not be referred to such outside counsel unless approved by the Attorney General on a case-by-case basis. The Attorney General reserves the right to assume direct control of any litigation matters and to direct the litigation strategy regardless of whether the matter is being handled by in-house or outside counsel

### **HANDLING OF LITIGATION MATTERS**

- a. **Managing Attorney**: For each litigation matter referred to outside counsel, an Assistant Attorney General or in-house Deputy Attorney General assigned to the Department will be designated as the Managing Attorney for the Department.<sup>1</sup> In the event the Department has no in-house counsel, an attorney in the Office of the Attorney General will be designated as the Managing Attorney. It is the ultimate responsibility of the Managing Attorney to resolve the case in a cost effective manner and to keep the Attorney General informed as to the status of the case. In the event outside counsel wishes to discuss the case directly with the Attorney General, the Managing Attorney should facilitate a conference.
  
- b. **Conflicts**: Immediately upon receipt of the referral of a matter and before commencing any work, outside counsel must determine whether there exists a conflict of interest which prevents or affects such outside counsel's ability to represent the Department for which outside counsel will be providing legal services. If such a conflict exists, outside counsel should advise the Managing Attorney immediately. Moreover, if a conflict arises during the course of handling the matter, outside counsel should advise the Managing Attorney immediately. It is the policy of the Attorney General that where outside counsel or the outside counsel's law firm is engaged in a legal matter adverse to any State agency or Department, such adverse representation may present a conflict of interest preventing the outside counsel from serving as a Deputy Attorney General unless a written waiver is obtained from the Attorney General. Whether a conflict exists or may be waived is governed by Rule 1.7 of the Alabama Rules of Professional Conduct and the Attorney General's consideration of whether outside counsel (1) could acquire confidential information that could be used against a State agency or Department in another proceeding; (2) asserts a legal position on behalf of another client that conflicts with or undermines a legal position outside counsel must assert on behalf of a State agency or Department; or (3) pursues adverse litigation against the State on an issue of such importance as to be fundamentally incompatible with outside counsel's services as a Deputy Attorney General.
  
- c. **Proportionality**: The cost of litigation should be reasonably related to the anticipated exposure, the difficulty in the case, and the amount of time required. It is expected that, where appropriate, litigation expenses will be minimized by the use of less expensive discovery procedures (i.e., interrogatories instead of depositions, avoidance of non-essential motions, etc.). Any variations from this guideline must be approved in advance by the Managing Attorney.

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<sup>1</sup> For cases in which more than one Department is involved, or in cases of particular importance to the State, the Attorney General will appoint a Managing Attorney from his staff or from a Department.

- d. **Mediation**: The prospects for mediation or early settlement should be evaluated as early as feasible after a prompt investigation into the facts surrounding the case. A written analysis of the pros and cons of mediation should be forwarded to the Managing Attorney for review prior to engaging in expensive discovery activities. See item j. infra.
- e. **Discovery and Case Management**: Once discovery commences, outside counsel should serve discovery promptly and respond promptly and thoroughly to discovery requests. Since defense costs increase the longer a case is pending, outside counsel should stick to Scheduling Order deadlines to the greatest extent possible and extend deadlines only when necessary. Absent an extraordinarily complicated case or an interlocutory appeal, cases should nearly always be resolved at the trial court level within three years of filing.
- f. **Communication**: The Attorney General expects outside counsel to keep the Managing Attorney advised of all material events that take place in litigation. Unless otherwise directed, all communication with the Attorney General should be directed to the Managing Attorney assigned to the case. The Managing Attorney is responsible for informing the Attorney General or his staff of any significant developments in the case.

Generally, complete copies of all correspondence, pleadings and other documents generated in the case should be forwarded to the Managing Attorney although the Managing Attorney may, when appropriate, request that only summaries of certain documents (i.e., depositions) be forwarded in order to minimize the need for duplication costs and storage space.

Outside attorneys should not undertake any of the following without obtaining prior written approval of the Managing Attorney:

1. Retain expert witnesses.
2. Permit more than one professional to attend depositions, hearings or trial.
3. Settlement.
4. Sever issues or claims for a separate trial.
5. Join parties.
6. File claims, counterclaims, or cross-claims.
7. Initiate an appeal.

Also, the Managing Attorney should be consulted regarding the following:

1. Changing the staffing of the case.
  2. Taking depositions of non-parties.
  3. Travel.
  4. Conducting motion practice.
- g. Staffing of Case:** The Attorney General expects outside counsel to use good judgment in the staffing of litigation involving the taxpayers' money so as to provide an excellent prosecution or defense without incurring unnecessary expense. Efficient use of resources requires that the lowest priced professional capable of doing the job well should be the one assigned to do it. The Attorney General expects basic work such as research, document review, summarization of testimony, etc., will be done by junior lawyers or paralegals.
- h. Settlement:** It is the Attorney General's experience that most litigation results in a settlement prior to trial, but efforts are often not made until shortly before trial after much of the cost of litigation has been incurred. Outside counsel will provide the Managing Attorney with a written settlement evaluation of each case within 60 days following receipt of the file or 10 days following receipt of answers of written discovery, whichever first occurs. Furthermore, potential of a settlement upon cost effective terms should be kept in mind throughout the handling of the case. Any communication from opposing counsel regarding settlement should be communicated immediately to the Managing Attorney. Of course, the ultimate decision to pursue or accept settlement rests with the Attorney General.
- i. Appeals:** When a case goes on appeal, outside counsel is subject to the Solicitor General Guidelines, which requires participation and review by the Solicitor General in most appellate matters. A copy of the Solicitor General Guidelines is attached to this memo.
- j. Billing Practices:** The Attorney General requests that outside counsel submit interim bills to the Managing Attorney on a monthly basis within seven (7) days of the end of such outside counsel's billing cycle. Instructions for completing the State of Alabama's Standard Invoice for Legal Services are attached hereto.—The instructions allow you to use your usual billing format for the bill, but the cover page summary must be completed and forwarded with your statement regardless of the billing format used. Billing forms can be found at the Attorney General's Office's website (AlabamaAG.gov) under "About," "Forms and Links," then "Deputy Attorney General Forms."

The Managing Attorney will review and approve bills for payment in accordance with the State of Alabama's Fiscal Policies and Procedures Manual. Bills will be audited to verify the accuracy of the time and charges claimed.

Managing attorneys have the right to deduct items from the bill which are not in accordance with these policies or are otherwise not necessary for the case. Managing attorneys will not approve any amount on an invoice which is not supported in sufficient detail.

### **Hourly Rates:**

- Must be agreed to at the outset of the case.
- The attorney rate may be up to \$195 per hour (actual time in units of one-tenth of an hour) unless a higher rate is approved by the Governor. See Executive Order 51, Amendment 1.
- The paralegal rate may be up to \$65 per hour (actual time in units of one-tenth of an hour) unless a higher rate is approved by the Governor. See updated Paralegal Fee Policy dated January 17, 2014.
- For condemnation work, the Department of Transportation's Standard Schedule for Attorney Fees will be used.

### **Expenses and Disbursements:**

The following requirements related to expenses and disbursements also apply to reimbursement of expenses for expert witnesses or other professionals retained directly by outside counsel or outside counsel's law firm.

#### General Expenses and Disbursements

- Only actual costs of expenses and disbursements will be reimbursed.
- Normal disbursements will be advanced by you and included in your statement for services rendered.
- Reasonable costs, not to exceed .15¢ per page, for photocopies. Fax charges will not exceed the actual cost. Use outside copying services to minimize the costs.
- Telephone charges, overnight mail, delivery charges, and professional services will be paid at "actual costs," and should only be used when absolutely necessary. Shipping charges, such as FedEx, UPS, etc., should include a detailed explanation of what is being shipped and why shipping is necessary.
- Computer assisted legal research is considered normal overhead for a law firm and will not be reimbursed

#### Travel Expenses and Disbursements

- Any air travel must be billed at coach rates.
- Where travel is required, all travel time must be billed at no more than one-half the approved hourly rate, or \$85.00 per hour, whichever is greater.

- Mileage for local travel will be reimbursable at the per mile rate allowed by the State for its employees.
  - The Attorney General expects similar moderation in charges for lodging, meals, ground transportation, and other travel expenses which generally shall not exceed the amount the State would reimburse a State lawyer for similar expenses. For a comprehensive statement of the policies regarding travel reimbursement for State lawyers, see “Payment for Reimbursement of Travel Expenses” in the Fiscal Policy and Procedures Manual, available at <https://comptroller.alabama.gov/fiscal-policy-procedures/>.
  - Under no circumstances will alcohol be reimbursed.
- k. **Efficiency of Work**: The Attorney General retains outside counsel, in part, because of such counsel’s expertise. Accordingly, the Attorney General does not expect to be billed for basic legal research to educate lawyers in the basic field of the lawsuit. Outside counsel is expected to utilize brief banks maintained by the Department and/or the Office of the Attorney General. Where circumstances exist that enable you to utilize your data or brief banks, the Attorney General expects the State to be charged only for the updating of previous research uses of materials. Furthermore, it is expected that you will draw upon that expertise in preparing standardized pleadings and memoranda/briefs such as notices of removal to federal court, motions to dismiss, etc. Most important, the cost of litigation should be reasonably related to the amount of work involved in the case, the difficulty of the case, and the amount of time required.
- l. **Clerical Work**: The Attorney General considers paralegals who have obtained a paralegal certificate to be professionals. Consistent with that concept, the Attorney General expects that normally you will not bill the State for the time of paralegals performing clerical work, such as filing pleadings, operating postage machines, transmitting faxes, running errands, and the like. We also expect that you would not bill the State for secretarial assistance, word processing, computer time (other than performing computerized legal research), and other items of overhead.

## **CONCLUSION**

The Attorney General trusts that these policies and procedures will be received in the manner intended, that being to assist in the timely and cost-effective resolution of litigation matters involving the State of Alabama. It is recognized that communication regarding the handling of litigation and other legal services is essential in developing a continual relationship between the Attorney General, Managing Attorneys, and outside counsel necessary to represent the State’s interest in litigation. The Attorney General encourages you to provide this Office with any suggestions or comments which you might have regarding the foregoing policies and procedures, including how they might be modified to further protect the State’s interest. The Attorney General also encourages you to develop and implement other cost-containment measures and to communicate them to the Managing Attorney.

This policy and procedure guide is incorporated by reference in each Deputy Attorney General appointment made by this Office and becomes part of the contract for attorneys hired by the State of Alabama.



STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

STEVE MARSHALL  
ATTORNEY GENERAL

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January 9, 2024

**MEMORANDUM:**

**TO: All Deputy and Assistant Attorneys General**

**FROM: Steve Marshall, Attorney General  
Edmund LaCour, Solicitor General**

**Re: Solicitor General Guidelines**

The purpose of this memo is to inform all Deputy AGs and Assistant AGs about the expectations Attorney General Marshall has set for the Solicitor General in his administration. This memo also gives these attorneys guidance about: (1) their obligations to inform the SG about certain cases; (2) their obligations to make the SG part of the State's team in some of those cases; and (3) requirements for formatting and content of appellate briefs.

The AG is responsible for all positions Deputy and Assistant AGs take in court. In light of that responsibility, the AG has assigned the following duties to the SG:

- Making the AG aware of all positions the State takes in state supreme courts, federal courts of appeals, and the U.S. Supreme Court;
- Ensuring that the positions Deputy and Assistant AGs take are uniform and consistent with the AG's view of the law;
- Helping the AG supervise cases on appeal to which the State and its officers are parties;
- Providing any assistance Deputy and Assistant AGs may need with appellate filings and arguments; and
- Appearing in, and representing, the AG's views in certain cases.

Therefore, under Attorney General Marshall, all Deputy AGs and Assistant AGs—including outside counsel and counsel for state departments and agencies—are to adhere to the following procedures:

1. **Trial courts:** The SG will not be involved in most cases in the trial courts. (One exception is cases in which a direct appeal lies to the U.S. Supreme Court. In those cases, the SG should appear as counsel, along with the trial team, in the district court.) In all cases pending at the trial-court level, attorneys should feel free to seek guidance and assistance from SG staff on research, briefing, and

editing. And attorneys are strongly encouraged to notify the SG whenever they believe that a case may present an important issue that the appellate courts will ultimately need to resolve. Such issues include, for example, issues of first impression or issues that have divided federal courts of appeals or state supreme courts.

2. **State intermediate courts of appeals:**

- a. **Case initiation.** Division chiefs will set procedures for case initiation in these courts. Attorneys do not need to notify the SG when appeals are filed by the State or against the State in these courts.
- b. **Briefing/oral argument.** Division chiefs will also set procedures for briefing and oral argument in these cases. Nevertheless, if a case *presents issues that are likely to go to the state Supreme Court, such as matters of first impression or cases in which either the State or other parties are seeking a change in the law*, attorneys should inform the SG as soon as possible. For any case in these courts, attorneys are encouraged to seek help from SG staff on research, briefing, and prepping for oral argument.
- c. **Applications for rehearing.** The SG will generally not review rehearing applications, or oppositions to rehearing applications, filed in these courts. Nevertheless, all attorneys should inform the SG that the State has sought rehearing. This requirement is designed to inform the AG and SG about issues on which the AG may eventually need to seek cert review from the Alabama Supreme Court.

3. **State Supreme Court and federal courts of appeals:**

- a. **Case initiation.** No attorney is to initiate a matter in a state Supreme Court or federal court of appeals—whether by notice of appeal, cert, stay application, mandamus, or some other extraordinary writ—without first receiving approval from the SG. The SG, in consultation with the attorney handling the case and the appropriate division chief, will determine whether the State will initiate the case or otherwise seek appellate relief. If the attorney anticipates that a decision from a lower court may require emergency relief from a state Supreme Court or federal appellate court, the attorney should inform the SG as soon as possible. When a cert petition is to be filed, the SG, division chief, and attorneys on the case will work out arrangements for review of drafts, with the understanding that the deadlines for filing cert petitions are always tight (and particularly tight in pretrial criminal appeals). In cases in which attorneys represent the appellee, attorneys are to email a copy of the docketing statement and notice of appeal to SG staff as soon as those documents are received. In cases in which the other side has filed a cert or mandamus petition, attorneys generally need not let the SG know that those petitions have been filed, but should inform the SG if the petitions raise serious issues.
- b. **Briefing.** The SG will, in conjunction with division chiefs and the other attorneys on the case, determine how to staff cases in these courts. In every case, the SG or a deputy SG will appear as counsel, and thus should be e-served with the other side’s briefs. In some cases, the SG staff will be actively involved in framing the argument and writing the State’s briefs—but there will be a strong presumption that the attorneys who handled the case below will remain actively involved. In other cases, the SG staff will only review close-to-final drafts of the briefs. In the latter circumstance, unless other arrangements are made, attorneys should email SG staff drafts of principal briefs 7 days before they are to be filed, and drafts of reply briefs 3 days before they are to be filed. In no event may a brief be filed before SG staff has authorized the filing.
- c. **Oral argument.** If oral argument is granted, the SG, in conjunction with the division chief and



other attorneys on the case, will determine who will argue the case. When SG staff has not played an active role in framing the argument and writing the brief, it will be more likely that an attorney who was primarily responsible for the briefing will argue the case. But in some such cases, SG staff (or the AG himself) will argue the case.

- d. **Rehearing applications.** The SG will, along with the division chief and other attorneys on the case, determine how to handle rehearing issues. *No rehearing application may be filed without SG approval.*

#### 4. **U.S. Supreme Court:**

- a. **Case initiation.** The SG will generally be counsel of record in any case filed in the U.S. Supreme Court. Any lawyer who believes it is appropriate to petition for certiorari (or take a direct appeal) to the Court is to notify and consult with the SG; and no appeal or cert petition is to be filed except at the SG's direction. If the State or one of its agencies or officers is the respondent to a cert petition, attorneys may at their discretion file waivers of the right to file a brief in opposition—but should inform the SG when the petition raises a serious claim. No brief in opposition is to be filed with the Court without the SG's approval. Drafts of BIOs should be sent to SG staff 7 days in advance of the due date.
- b. **Briefing/oral argument.** The AG and SG will, in conjunction with the attorneys on the case and the division chief, determine how to handle the merits and post-merits phases. The SG will generally be in charge of these matters, but there will be a strong presumption that attorneys who worked on the matter below will remain actively involved in the case.

5. **Amicus briefs.** Please forward all amicus requests, in any court, to SG staff.

6. **Agency counsel and outside counsel.** This policy applies to all Deputy and Assistant AGs, including those who represent state agencies and departments, and outside counsel appointed as Deputy AGs.

7. **Contacting the SG.** Please send all documents for the SG's review to the SG (Edmund LaCour), Principal Deputy SG (Barrett Bowdre), and paralegal (Rene Whyard) at the following email addresses: [edmund.lacour@AlabamaAG.gov](mailto:edmund.lacour@AlabamaAG.gov), [barrett.bowdre@AlabamaAG.gov](mailto:barrett.bowdre@AlabamaAG.gov), and [rene.whyard@AlabamaAG.gov](mailto:rene.whyard@AlabamaAG.gov).

#### 8. **Reviewing, Finalizing, and Filing Briefs.**

- a. When you send a draft brief to the SG for review, please also send an electronic copy of the lower court decision being appealed and, if applicable, the opening brief submitted by the opposing side. In your email, please also note the due date for the State's brief.
- b. Before sending any brief to the SG for review, please review the rules of the court to which the brief will be submitted and the SG style guide included with these guidelines to confirm the draft brief complies with both. The SG has templates for briefs available for attorneys to use. Email [rene.whyard@AlabamaAG.gov](mailto:rene.whyard@AlabamaAG.gov) to obtain a template if needed.
- c. The division or agency handling the appeal is responsible for finalizing, filing, and serving the brief in accordance with court rules. Because the SG's review may lead to changes in the brief, it will generally be more efficient to create a table of contents and table of authorities for the brief after the SG's review.

# Solicitor General's Style Guide

January 2024

## 1.1. Local rules

Most importantly, review and abide by the rules of the court to which the brief will be submitted. Become particularly familiar with Federal Rules of Appellate Procedure 27 (Motions), 28 (Briefs), 32 (Form of Briefs), and the corresponding Eleventh Circuit rules. Likewise, pay special attention to Alabama Rules of Appellate Procedure 21 (Writs of mandamus), 27 (Motions), 28 (Briefs), 32 (Form and length of briefs), and 39 (Petitions for writ of certiorari).

## COVER AND FRONT MATTER

### 2.1. Period after <et al.>

Punctuate <et al.> with a period after <al> (but not after <et>).

### 2.2. Signature blocks

The signature block must include the Attorney General and Solicitor General.

### 2.3. No pincites or parentheticals in the table of authorities

Remove all pincites in sources in the table of authorities. Also omit from the table all case parentheticals, such as <(per curiam)>.

### 2.4. Properly alphabetize sources in the Table of Authorities

Alphabetize cases according to the unabbreviated first name and “other authorities” by the author’s last name, not the first word describing the source.

### 2.5. Statement of the Case

Generally describe the facts and proceedings relevant to deciding the appeal in the order they happened. Thus, underlying facts that gave rise to the litigation should generally be discussed before the legal proceedings that followed. Avoid including details that have no bearing on the issues presented.

The Alabama Rules of Appellate Procedure require an additional “Statement of the Facts.” If appropriate, insert the following sentence there: “The relevant facts are recounted above in the Statement of the Case.”

### 2.6. Standard of Review

Do not waste valuable words on these well-trodden rules. Rarely should a standard of review exceed one paragraph.

## **BODY OF THE BRIEF**

### **3.1. Headings generally**

Keep them concise, crisp, and clear.

### **3.2. Capitalization of headings**

Every Word In A Main Heading (I., II., III.) Should Be Capitalized.

Capitalize All Words in Subheadings (A., B., C.) Except Short Prepositions, Articles, and Coordinating Conjunctions.

Use normal sentence capitalization in sub-subheadings (1., 2., 3.).

### **3.3. Orphan headings**

Use the “Keep with next” formatting option to avoid orphan headings (a heading that is left all alone at the bottom of a page). (In Microsoft Word, select: <Paragraph>, <Line and Page Breaks>, <Keep with next>)

### **3.4. Justify headings, paragraphs, and footnotes**

This presents a more ordered text and is required by the Alabama Rules of Appellate Procedure. Note that Microsoft Word often automatically formats footnotes with different font style, size, and alignment than body text, so be sure to doublecheck footnote formatting.

### **3.5. Control widows and orphans**

Use Widow/Orphan control (<Paragraph>, <Line and Page Breaks>, <Widow/Orphan control>) and/or hard spaces (Ctrl + Shift + Spacebar) to avoid widows (a single line of text appearing at the top of a page) and orphans (a single word sitting at the bottom of a paragraph of text).

### **3.6. Avoid big white gaps between sections**

Do not include extra lines between sections. You can identify blank lines for deletion with <Show ¶> turned on (Ctrl + \*).

### **3.7. Minimize the use of footnotes**

Never hide important arguments in a footnote. And legal citations should generally be in the body of the brief, not in the footnotes.

### **3.8 Use block quotations sparingly**

Remember that the temptation for the reader to skip over block quotations is often too strong to overcome. If used, they should be indented .5” on both sides, single-spaced, and justified. A citation following a block quote should not be indented.

### **3.9. Do not use superscripted ordinals**

Avoid superscript in all situations. For example, use <11th Cir.>, not <11<sup>th</sup> Cir.>.

### **3.10. Use only one space after a period or colon**

### **3.11. Generally use hyphenation**

Hyphenation (<Layout>, <Hyphenation>, <Automatic>) makes justified text more readable by reducing white space between words. But remove hyphenation (<Paragraph>, <Line and Page Breaks>, <Don't Hyphenate>) from headers.

### **3.12. Generally use hyphens rather than en-dashes to connect numbers**

*e.g.*, <538-39>, not <538–39>.

### **3.13. No spaces before and after em-dashes**

Use em-dashes <—> as appropriate between phrases.

### **3.14. Use “smart” quotation marks**

Use “smart quotes,” not "straight quotes," except when designating feet or inches. Follow the same rule for apostrophes. "Straight quotes" are often introduced by pasting text from Westlaw. This can be fixed in the final draft with a find-and-replace of each mark with itself (Word will then auto-correct them to smart quotes). When pasting from Westlaw, also remember to use Paste Special (Ctrl + Alt + V) with “Unformatted” pasting to avoid introducing web codes.

### **3.15. Hard spaces after § and ¶ symbols**

Avoid lines that end with a <§> or <¶> by using a hard space (Ctrl + Shift + Spacebar) between the symbol and the number. Also use hard spaces after other abbreviated reference marks (such as <Ex. A, Fig. 23>), and after trademark and copyright symbols.

### **3.16. Capitalization of <State>**

Capitalize <State> as a proper noun, but use lowercase <state> when it modifies another word (*e.g.*, <state action>).

### **3.17. Hyphenate phrasal adjectives**

Generally hyphenate phrasal adjectives (such as <third-party rule>) but don't hyphenate phrasal adjectives that begin with <-ly> adverbs unless the phrase exceeds three words (<duly enacted law>, not <duly-enacted law>).

### **3.18. Ellipses**

Use <Ctrl + Alt + . > to insert an ellipsis. (<...>, not <. . .> or <...>).

### **3.19. Avoid ALL CAPS.**

TEXT IN ALL CAPS is the written equivalent of shouting and is to be avoided.

### **3.20. Use parties' names**

Consider calling parties by their real names (<Smith> or <Jones>) rather than their procedural labels (<Plaintiff> or <Appellant>).

### **3.21. Use English**

Avoid phrases such as: ab initio, arguendo, instanter, inter alia, sui generis, vel non.

### **3.22. Do not italicize commonly understood Latin phrases**

Commonly understood phrases such as <de novo>, <habeas corpus>, <stare decisis> and <res judicata> should not be italicized. Less common foreign phrases should be italicized, but they should also be avoided if possible. Use your judgment in deciding whether to italicize <i.e.>, <e.g.>, <et al.>, and <et seq.>. However you choose to italicize, be consistent throughout the brief.

### **3.23. Be careful where you place “only”**

Place <only> immediately before whatever it modifies.

### **3.24 Avoid conclusory or hyperbolic modifiers**

Avoid modifiers such as <clearly>, <obviously>, and <plain>. If it really is one of those things, you shouldn't have to say so.

### **3.25. Avoid legalese unless the court uses or requires it**

Avoid <Prayer> in federal court. Also avoid: <Comes now>, <premises considered>, <under-signed counsel>, <case at bar>, <hereby>, <said> as an adjective, <the same>, <aforementioned>, <further affiant sayeth naught>, etc. Avoid <such> as an adjective; consider replacing it with <this>, <these>, <that>, or <those>.

### **3.26. When typing a number, either spell it out or type the number, but don't type both**

Generally avoid the redundancy of both spelling out a number and including the numeral beside it, e.g., <The statute of limitations ran eight (8) days before Smith filed suit.>

## **END MATTER**

### **4.1. Use a comma at the end of <Respectfully submitted,>**

Use a comma, rather than a period, after <Respectfully submitted>. Do not capitalize <submitted>.

### **4.2. Keep the concluding signature block and the Conclusion together**

Generally, neither the concluding signature block nor <Respectfully submitted,> should begin on a new page. If there is room, they should appear on the same page as the Conclusion. Use “Keep With Next” to prevent their separation.

### **4.3. Electronic signatures**

Leave the name following the <s/> unitalicized, *i.e.* <s/ John Smith>.

## **INSTRUCTION FOR SUBMISSION OF INVOICES FOR LEGAL SERVICES**

(Download fillable forms on our website: [alabamaag.gov/forms-and-links](http://alabamaag.gov/forms-and-links) – DAG – Standard Invoice for Legal Services)

1. Cases will be assigned to attorneys individually, and not to law firms. Each attorney shall separately account for his/her time. If more than one attorney in a firm works on a particular case, each attorney should separately account for his or her related expenses and non-attorney invoices. Ensure that you attach a copy of the Deputy Attorney General (DAG) letter and the Governor's rate letter to each invoice submitted.
2. If more than one attorney in a law firm has been assigned to the case and will be billing time and expenses, a "LAW FIRM SUMMARY INFORMATION" page should be submitted with each invoice itemizing the total amount of time billed by each attorney and summarizing the total amount billed for all attorneys in the firm.
3. The coversheet of each invoice should provide general information such as invoice date, case name, case number, total time, total expenses, etc., and should include an affidavit signed by the attorney before a notary public. Note: you may use your usual billing format for the bill so long as it contains the information identified in this paragraph. However, you must use the cover page summary contained on the Standard Invoice for Legal Services regardless of the billing format used.
4. The pages immediately following the summary page (first page) should provide complete, detailed and accurate task descriptions for all attorney and paralegal hourly fees which were summarized on the first page. Each entry should denote the date the task was performed, provide a description of the task performed, identify the timekeeper who performed the task, denote the hourly rate of the timekeeper, and denote the time spent performing the task. Please see "STANDARD INVOICE FOR LEGAL SERVICES ATTACHMENT" to ensure all required information is provided.
5. In the event the attorney retains the services of other individuals (investigators, experts, court reporters, etc.) to assist with the case, the billing information for such individuals should immediately follow the detail pages outlining all attorney and paralegal hourly fees. Each entry for other individuals should denote the date the task was performed, provide a description of the task performed, identify the timekeeper who performed the task, denote the hourly rate of the timekeeper, and denote the time spent performing the task. Further, each bill should include an affidavit signed by the service provider before a notary public. Please see "NON-ATTORNEY SERVICES FORM" included in this packet to ensure all required information is provided. You may use your usual billing format so long as it contains the information identified in this paragraph.
6. IMPORTANT: If the attorney hires services of other individuals, including court reporters, and experts, the attorney or his/her firm must pay for all services prior to billing the State for reimbursement. All billings for such services must include the detailed information required in item 5. above, as well as proof that payment was made for such services. Any exception must be authorized by the Managing Attorney and Agency Head.
7. The bulk invoice for all services for which the attorney is seeking payment should be stapled or bound intact and submitted to the Managing Attorney in the appropriate State agency. Any amount on an invoice which is not supported in sufficient detail will not be paid.
8. For any other questions, please see the Alabama Comptroller's Fiscal Policy and Procedures.

# STANDARD INVOICE FOR LEGAL SERVICES

Invoice Date: \_\_\_\_\_ Invoice Number: \_\_\_\_\_  
 GLTF Number: \_\_\_\_\_ Department/Agency: \_\_\_\_\_  
 Style of Case: \_\_\_\_\_ v. \_\_\_\_\_  
 Court: \_\_\_\_\_ Assigned Judge: \_\_\_\_\_  
 Case Number: \_\_\_\_\_  
 Name of Law Firm: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Name of Attorney: \_\_\_\_\_  
 Business Phone: (\_\_\_\_) \_\_\_\_\_ Taxpayer ID#: \_\_\_\_\_  
 E-mail Address: \_\_\_\_\_  
 Date Appointed Deputy Attorney General: \_\_\_\_\_  
 (Note: A copy of appointment letter must be attached to invoice.)

Authorized Maximum Amount for Services: \$ \_\_\_\_\_  
 Total Amount of Previously Billed Services: \$ \_\_\_\_\_  
 Total Amount of Previously Paid Services: \$ \_\_\_\_\_

**Current Services (As Itemized in Detail on Attached Documents):**

Attorney - In and Out of Court	Total Hours _____	@	\$ _____	Per hour	\$ _____
Attorney Travel <small>(NOTE: travel time is the greater of one-half the hourly rate or \$85 per hour.)</small>	Total Hours _____	@	\$ _____	Per hour	\$ _____
Non-Attorney Services for Firm	Total Hours _____	@	\$ _____	Per hour	\$ _____
Non-Attorney Services (experts, court reporters, etc.) - <i>Must attach proof of payment.</i>					\$ _____
<b>Total Amount Due for Current Services</b>					<b>\$ _____</b>
<b>Expenses Total</b>					<b>\$ _____</b>
<b>Total Amount Due for Current Services and Expenses</b>					<b>\$ _____</b>

State of \_\_\_\_\_  
 \_\_\_\_\_ County

**AFFIDAVIT**

Before me, the undersigned Notary Public, in and for the said County and State, personally appeared the undersigned affiant, who is known to me and after first being duly sworn by me deposes and states under oath of as follows: that the claims for payment herewith made against the State of Alabama reflect actual services performed and/or expenses for the State of Alabama and are in all respects true, correct, and due.

\_\_\_\_\_  
Signature of Affiant

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

My Commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public Signature

REVIEW: \_\_\_\_\_  
 Managing Attorney Signature

APPROVAL: \_\_\_\_\_  
 Department Head Signature



# LAW FIRM SUMMARY INFORMATION

Style of Case: \_\_\_\_\_ v. \_\_\_\_\_

Case Number: \_\_\_\_\_

GLTF Number: \_\_\_\_\_

Maximum Authorized Amount: \$ \_\_\_\_\_

**Total Current Services by Attorney**

Names of Attorneys	Amount
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

Names of Non-Attorney Timekeepers for Firm	
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

Non-Attorney Services* (experts, court reporters, etc.)	
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

**Total Current Services:** \$ \_\_\_\_\_

**Total Current Services by Type:**

Attorney	\$ _____
Non-Attorney Services - Firm	\$ _____
Non-Attorney Services - Other	\$ _____
Expenses	\$ _____

**Total Current Services and Expenses for Firm** \$ \_\_\_\_\_

\*For Non-Attorney Services - Other, detailed supporting documentation for services provided and payments made must be attached.



