

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

\$25,180.00 IN UNITED STATES
CURRENCY,

Defendant.

4:13-CV-3103

ORDER

This matter is before the Court on the claimant's Motion to Retain Expert Witness Using Federal Practice Fund (filing 71). For the reasons explained below, the Court will deny that motion without prejudice.

The [Amended Federal Practice Fund Plan and the Federal Practice Committee Plan \(as adopted March 11, 2014\)](#) provides that when seeking prior authorization to incur expenses, counsel "must set forth the purposes for incurring the expenses, the estimated cost, the applicant's efforts to keep the cost as low as possible, and the applicant's efforts to obtain funds from other sources to pay the expenses." *Id.* at 6. The Court is satisfied that other funds are unavailable to pay the expense at issue here, and that counsel will keep the cost as low as possible. The sticking point is that the claimant has not estimated the cost of such an undertaking. And that leaves the Court in a difficult position, because the Federal Practice Fund Plan requires the Court, when approving an application for authorization to incur expenses, to file an authorization order "stating the maximum amount approved." [Federal Practice Fund Plan](#), at 6. And with the record as it stands, the Court has nothing on which to base such a determination.

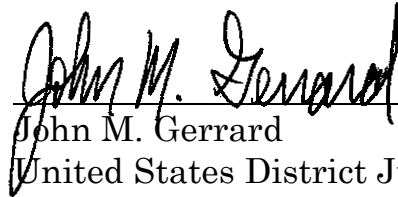
So, the Court will deny the claimant's motion, but without prejudice to reasserting it with *some* basis for the Court to approve the *amount* of expenses to be incurred. Should the claimant's initial estimate prove inaccurate, then the matter can be revisited—but the Court at least needs counsel's "best estimate" in order to comply with the terms of the Federal Practice Fund Plan.

IT IS ORDERED:

1. The claimant's Motion to Retain Expert Witness Using Federal Practice Fund (filing 71) is denied without prejudice.

Dated this 3rd day of November, 2014.

BY THE COURT:



John M. Gerrard
United States District Judge