

**§ 7A-343.7. Legal services for the Judicial Branch.**

(a) The Director may employ staff counsel or retain private counsel to provide legal services, including litigation services, to a current or former official or employee of the Judicial Branch in any action or matter arising in the scope and course of the official's or employee's official duties. The Director also may employ or retain counsel to provide legal services, including litigation services, to an agency, commission, conference, or other entity in the Judicial Branch. The Director shall supervise and manage counsel employed or retained under this section. The Director may use funds available to the Judicial Branch to employ or retain counsel authorized under this section.

(b) All of the following apply when the Director employs or retains counsel under this section to provide litigation services:

- (1) Employed or retained counsel shall not provide litigation services for the defense of a civil or criminal action or proceeding brought against a current or former official or employee of the Judicial Branch if the Director determines that any of the conditions in G.S. 143-300.4(a)(1) through (a)(4) exist. The Director's provision of litigation services for the defense of a current or former official or employee of the Judicial Branch shall raise a presumption that no grounds for refusal to defend were discovered.
- (2) If the action or proceeding for which employed or retained counsel is to provide litigation services is one in which plaintiffs or claimants seek in excess of one million dollars (\$1,000,000) in damages or for which a final judgment orders the State to pay the sum of one million dollars (\$1,000,000) or more, the Director shall report the litigation to the Attorney General's office and the Attorney General shall complete reports under G.S. 114-2.6.
- (3) Judgments and settlements in actions or proceedings against current or former Judicial Branch officials or employees where the Director has approved the provision of litigation services shall be paid by the State in accordance with G.S. 143-300.6(a) as modified by subsection (c) of this section.
- (4) If the settlement or resolution of the action involves the sum of seventy-five thousand dollars (\$75,000) or more, the Director shall report the settlement to the Attorney General's office, and the Attorney General shall complete reports under G.S. 114-2.4(b).

(c) When the Attorney General provides for representation in a civil or criminal action or proceeding for which a current or former official or employee of the Judicial Branch or an entity in the Judicial Branch is a party, whether under this section, G.S. 114-2, or Article 31A of Chapter 143 of the General Statutes, any compromise or settlement must be approved by the Judicial Branch entity, official, or employee named in the action and, if the settlement or resolution involves the payment of public monies, the Director. The approval of the Attorney General shall not be required for the compromise or settlement of any claim in the action or proceeding.

(d) When the Director employs or retains counsel under this section, G.S. 114-2(1) through (2), 114-2.3, 143C-6-9(b), and 147-17(a) through (c1) shall not apply.

(e) This section does not prohibit the Attorney General's office from representing an official or employee of the Judicial Branch pursuant to Article 31A of Chapter 143 of the General Statutes upon that official's or employee's request to the Attorney General.

(f) The coverage afforded a current or former official or employee of the Judicial Branch under this section shall be excess coverage over any commercial liability insurance, other than insurance written under G.S. 58-32-15, up to the limit provided in G.S. 143-300.6(a).

(g) All communications or documents made or used in connection with the provision of legal services by counsel employed or retained under this section are not "public records" as defined by G.S. 132-1 and shall not be open to public inspection, examination, or copying.

- (h) The following definitions apply in this section:
- (1) "Civil or criminal action or proceeding" as defined in G.S. 143-300.2.
  - (2) "Employee" as defined in G.S. 143-300.2.
  - (3) "Litigation services" includes legal work conducted in anticipation of, or in preparation for, any suit or action.
  - (4) "Private counsel" includes any licensed attorney retained by, engaged by, or otherwise representing a current or former Judicial Branch employee, officer, or entity but does not include a licensed attorney who holds a permanent budgeted position in either the Department of Justice or the applicable Judicial Branch entity. (2024-57, s. 3D.2(a).)