

RULE 3011-1 UNCLAIMED FUNDS

(A) ***Deposit of Unclaimed Funds***: All unclaimed funds collected by the Court shall be immediately deposited into the United States Treasury and not into the registry of the Court.

(B) ***Disposition of Unclaimed Funds***

(1) ***Requirements for Pro Se Creditor/Claimant - Self Representation***- A request for return of an unclaimed dividend must be in writing and in the form of a motion filed with the Court. Creditor/claimant must sign a certificate of mailing reflecting that the motion was served on the United States Attorney for the Eastern District of Virginia, pursuant to 28 U.S.C. §2042, and on the United States Trustee. The motion must state:

(a) the name, address, telephone number and a brief history of the creditor from the filing of the claim to present (to reflect possible reasons for the funds not being deliverable at the time of original distribution);

(b) whether the claim has been assigned to the creditor, and, if so, copies of all documents evidencing assignment must be appended to the motion; and,

(c) whether or not the creditor/claimant believes that any other party may be entitled to the funds.

The motion must contain a certificate of a notary public, which bears the seal of the notary, that such notary has examined the motion and documents presented by the creditor/claimant establishing identity. If the creditor/claimant is a corporation, it must be represented by a member of the bar of this Court. In addition, if the creditor/claimant is a successor corporation, creditor/claimant shall provide documents establishing the chain of ownership of the original corporate claimant as proof of entitlement to the claim.

(2) ***Requirements for the Representative of the Estate of a Deceased Claimant***: The representative must comply with all requirements in paragraph (1) above. Certified copies of all probate documents to substantiate the representative's right to act on behalf of the decedent's estate must be provided as proof of entitlement.

(3) ***Requirements for any other individual representing the interest of creditor/claimant***: The representative must be an attorney admitted to practice in accordance with these Local Bankruptcy Rules. The attorney must file a motion with the Court for an order authorizing return of an unclaimed dividend pursuant to FRBP 9013. The motion must contain the name, address, telephone number and brief history of the creditor from the filing of the claim to present (to reflect possible reasons for the funds not being deliverable at the time of original distribution). If applicable, proof of any sale of the company, new and prior owners, a copy of the terms of any purchase agreement or

stipulation by prior and new owners of right of ownership to the unclaimed funds must be provided. If the claim has been assigned to the claimant, copies of all documents evidencing assignment must be appended to the motion. The motion must state whether or not the moving party believes that any other party may be entitled to the funds. Movant must sign a certificate of mailing reflecting that the motion was served on the United States Attorney for the Eastern District of Virginia and on the United States Trustee. An original power of attorney from the creditor/claimant authorizing the attorney to represent the interest of the creditor/claimant must be attached to the motion.

(4) ***Action on Motion***: Twenty days following receipt of the above documentation, and if no objections have been filed, the Clerk shall prepare and submit the appropriate order to the Court. Any payment made to a claimant represented by an attorney will be issued jointly to claimant and the attorney and will be mailed to the attorney.

Comments

3011-1(B) Inclusion in subparagraph (B)(1)(c) of those items that may be presented to a notary to establish the movant's identity has resulted in some movants appending copies of forms of identification to their motions. This may have the effect of unnecessarily placing personal identifiers into the public record. The listed forms of identification have been removed for this reason. [Change effective 12/1/03.]