

~~3007 1 Paragraph (C) is repealed in light of Local Bankruptcy Rule 5005-2, which mandates electronic case filings in the Court's Case Management/Electronic Case Files (CM/ECF) System and authorizes the Clerk to promulgate and revise the Court's Electronic Case Files (CM/ECF) Policy. In addition, time computation adjustments have been made, as needed, to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. Stylistic changes have been made to the text of the LBR as well. [Repeal and changes effective 12/01/09.]~~

**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. A Form W-9, Request for Taxpayer Identification Number and Certification, also must be completed, signed and filed with the motion. The exempt payee box should be checked on the Form W-9. The form and accompanying instructions are accessible at the Bankruptcy Forms page on the Court's Internet web site. 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. The motion must state whether or not the moving party believes that any other party may be entitled to the funds.

As provided for in LBR 9013-1(M)(1), notice of the motion shall be in substantial compliance with Official Form 20A, allowing 21 days' notice for written responses objecting to the relief requested and must contain the "NOTICE" language substantially in the form set forth therein. 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.

**(2) Requirements for the Representative of the Estate of a Deceased Claimant:** The representative must comply with all requirements in paragraph (B)(1) of this Local Bankruptcy Rule. 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. A Form W-9, request for Taxpayer Identification Number and Certification, also must be completed, signed and separately submitted, via email or mail, to the Finance Department (Form W-9 and accompanying instructions are accessible on the Court's Internet web site's Bankruptcy Forms page). The exempt payee box should be checked on Form W-9. 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, and 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.

As provided for in LBR 9013-1(M)(1), notice of the motion shall be in substantial compliance with Official Form 20A, allowing 21 days' notice for written responses objecting to the relief requested and must contain the "NOTICE" language substantially in the form set forth therein. 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-one 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.

(5) **All creditors/claimants:** Pursuant to the Vendor Administration and 1099 Issuance Procedures promulgated by the Administrative Office of the United States Courts, the Court requires that each creditor/claimant (the rightful owner of record) complete a Form W-9, Request for Taxpayer Identification Number and Certification, to facilitate the accurate preparation of Court-generated Forms 1099-MISC, Miscellaneous Income, and 1099-INT, Interest Income, as required by the United States Internal Revenue Code. Failure to complete, sign and return a Form W-9 may result in non-payment.

### 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.]

3011-1 The third paragraph to LBR 3011-1(B)(3) is amended to make explicit that the procedures set forth in LBR 9013(M)(1) must be followed to meet the requirements set forth in LBR 3011-1(B)(3). [Change effective 9/1/06.]

3011-1 Time-computation adjustments have been made, as needed, to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. Stylistic changes have been made to the text of the LBR as well. [Changes effective 12/01/09.]

3011-1 Paragraph (B)(1) and (3) are amended to conform to the Vendor Administration and 1099 Issuance Procedures promulgated by the Administrative Office of United States Courts. Paragraph B(5) is new. [Changes effective 09/03/13.]

3011-1 The last sentence of the third paragraph in paragraph (B)(1) is new. The fourth paragraph in paragraph (B)(1) is new and makes explicit that the procedures set forth in LBR 9013-1 (M)(1) must be followed to meet the requirements set forth in LBR 3011-1(B)(1). [Changes effective 09/03/13.]