

Motion for Payment of Unclaimed Funds

Docketing Event

Bankruptcy > Motions/Applications/Objections > Motion for Payment of Unclaimed Funds

- ❖ **Note: Due to the inclusion of a W-9 form or AO213, these motions are restricted from viewing by all but internal court staff, the filer (if filed electronically), the Trustee assigned to the case, and the U.S. Trustee.**
-

Negative Notice: N/A

Accompanying Orders: Yes. The Court prepares the order.

Code and Rule References:

[28 U.S.C. § 2042](#)

Fee: N/A

Applicable Chapters: 7, 11, 12, 13

Implemented: 2/9/2016

Last Revision: 9/29/2020 08:01:02 AM

Description

Pursuant to 28 U.S.C. § 2042, a claimant entitled to any unclaimed funds held by the Court in its registry may petition the Court for the funds.

There are two ways funds are deposited into the Court's registry. First, when dividends (assets) are distributed by the trustee to creditors, 90 days after the final distribution of assets, any unclaimed dividends (checks that were not tendered) are sent to the Court for deposit into the Court's unpaid funds registry. Second, when a distribution check is returned to the trustee, the trustee files a report with the Court and submits a check for deposit into the Court's unclaimed funds registry. The report is accompanied by a check for the amount of the returned distribution. Chapter 13 Trustees file one report with a list of multiple cases with unclaimed funds.

A party claiming funds deposited in the Court Registry must file a motion. Motions often are filed by the original claimant(s). In some instances, the funds were deposited in the name of joint claimants, such as a husband and wife. The motion can be filed by one of the joint claimants requesting half the funds, representing their share of the monies on deposit.

Many claimants hire a funds locator who, with proof of employment by the claimant, may file the motion for payment of unclaimed funds. Any suspicious applications or indications of fraud will be turned over to the United States Attorney. For exceptional requests involving multiple cases, creditors may contact the Clerk of Court for directions on filing an omnibus application.

Filing Checklist

Review the motion to determine if:

- It is properly served and includes a proper certificate of service that reflects service on the United States Attorney, Attention: Civil Procedures Clerk, 400 N. Tampa St., Suite 3200, Tampa, FL 33602;

- ❖ **Note for pro se filers:** In addition to service on the United States Attorney, the original motion must also be filed with the Clerk of Court at the location the original petition was filed:
 - **For cases filed in the Tampa or Ft. Myers Divisions:** 801 N. Florida Avenue, Suite 555, Tampa, FL 33602;
 - **For cases filed in the Jacksonville Division:** 300 N. Hogan Street, Suite 3-150, Jacksonville, FL 32202; and
 - **For cases filed in the Orlando Division:** 400 W. Washington Street, Suite 5100, Orlando, FL 32802
- The motion contains the name and case number of the debtor;
- The motion contains the name, address, and telephone number of the claimant;
- The motion contains the exact amount of funds being requested;
 - ❖ **Note:** It is not sufficient to simply state: “The amount of claim #____.”
- The motion contains an explanation of the claimant’s right to the unclaimed funds;
- The motion contains the last four digits of the claimant’s social security number (if the claimant is an individual) or the claimant’s full tax identification number (if the claimant is a corporation);
 - ❖ **Note:** If the claimant is the debtor, verify the last four digits of the social security number match the social security number on the docket.
- If the claimant is an individual, IRS Form W-9 (or AO 213) must be included;
- If the claimant is a non-individual, form AO 213P must be included;
- Proper identification is included:
 - Filed by a claimant who is represented by an attorney: no additional documentation is required;
 - Filed by a party who is an individual, movant must include: (1) a copy of their driver’s license and (2) a notarized signature of the claimant;
 - Filed by a personal representative, such as a funds locator on behalf of a claimant, movant must include: (1) a notarized signature of the claimant and (2) an **original** notarized Power of Attorney;
 - ❖ **Note:** If the funds locator is a corporation, follow the requirements of a funds locator, not the requirements for a corporation.
 - Filed by a corporation, movant must include: (1) a notarized Corporate Power of Attorney signed by an officer of the company, (2) a statement of signing officer’s authority, and (3) documents establishing chain of ownership is required if the claimant was not the original corporate claimant;
 - Filed by a claimant other than the original claimant (successor claimant), movant must include: documentation evidencing the transfer of the claim or proof of purchase/sale of the assets;
 - Filed by a movant who is a representative of a deceased claimant, movant must include: (1) certified copies of all probate documents that substantiate the representative’s right to act on behalf of the decedent’s estate and (2) a certified copy of the decedent’s death certificate;
 - Filed by a bankruptcy trustee in the Claimant’s bankruptcy case, movant must include: a copy of the 341 meeting notice or other document showing the trustee is appointed to the case is required.

Forms

[Motion for Payment of Unclaimed Funds](#)

Helpful Information

[AO Form 213](#)

[AO Form 213P](#)

[IRS Form W-9](#)