

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA**
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**CLERK'S INSTRUCTIONS FOR DEPOSITS INTO
AND WITHDRAWALS FROM UNCLAIMED FUNDS**

Local Rule 3011-1 sets forth the provisions for depositing and withdrawing unclaimed funds in this court.

I. Deposits Into Unclaimed Funds:

Trustees or others depositing funds into the court pursuant to Local Rule 3011-1(A) or (B) must submit the court's Local Form "Notice of Deposit of Funds With the U.S. Bankruptcy Court Clerk" (LF-26), which also requires the attachment of a list of all claimants containing required information, including name, amount of claim, amount allowed and last known address.

II. Withdrawals from Unclaimed Funds:

A. General Instructions:

Modifications to forms **are not** permitted. Applications submitted on modified or nonconforming forms will be returned unprocessed.

If you are a "funds locator" or attorney (i.e. a person who **is not** the original claimant or successor in interest to the original claimant, or an officer of an original claimant corporation or an officer of a successor in interest to an original claimant corporation) and you are claiming funds in the name of a party in whose name funds were deposited with the clerk, you must complete all information on the Local Form "Affidavit of Claimant" **before** it is given to the claimant to sign **and have notarized**. This is necessary to ensure that the claimant has sufficient information to verify that the claimant is in fact entitled to the funds.

Applicants must provide notice to the U.S. Attorney pursuant to 28 U.S.C. §2042. The address is: 99 NE Fourth Street, Miami, FL 33132.

B. Required Forms and Other Supporting Documents:

1. Individuals Applying as Original Claimants (including those claiming as probate successors)

Individuals applying on behalf of themselves must submit the court's Local Form "Application to Withdraw Unclaimed Funds" (LF-27), which must be

notarized, a copy of an official government photo id to prove identity (for example driver's license, passport) and Local Form "Order For Payment of Unclaimed Funds" (LF-29).

If funds were deposited in the names of both husband and wife, both must sign this application and provide identification, or if one spouse is requesting release of funds in the name of that spouse only, applicant must attach a notarized affidavit stating why the funds should be released to only one spouse and not in the name of both.

2. Funds Locators, Attorneys Or Employees Of Corporations Representing Individual Or Non Individual Creditors In Whose Name Funds Were Deposited With The Clerk.

In addition to the Local Form, "Application to Withdraw Unclaimed Funds" (LF-27), and Local Form, "Order For Payment of Unclaimed Funds" (LF-29), **you must also submit:**

- this court's Local Form "Affidavit of Claimant" (LF-28) (claimant must complete the form and have it notarized.);

- a "Power of Attorney" conforming to Official Bankruptcy Form 11A "Power of Attorney". If the claimant is a non individual, a corporate power of attorney, signed by the CEO (or other authorized signatory) of the company, sealed with the corporate seal and accompanied by a statement of the signing officer's authority, as well as documents which established the chain of ownership of the original corporate claimant must be provided.

- copy of an official government photo id to prove identity (for example driver's license, passport) of the person you are representing

- any documentation that will support the claimant or successor in interest to the original claimant's right to this claim (i.e. probate orders, purchase of business contracts, etc.).

3. Debtors Claiming Funds Deposited in the Name of a Creditor

Debtors seeking to claim funds deposited in the name of a creditor must:

Submit the Local Form, "Application to Withdraw Unclaimed Funds" (LF-27), "Order for Payment of Unclaimed Funds" (LF-29) **and** attach to the local form application a copy of an official government photo id to prove debtor's identity (for example driver's license, passport) and a sworn affidavit detailing debtor's right to the funds deposited in the name of the creditor and attach copies of any exhibits to substantiate this right. The debtor must also

attach a certificate of service reflecting that a copy of the application and required attachments has been served on the creditor whose funds the debtor is seeking to claim and on the trustee who deposited the funds with the clerk of court. If funds were deposited in a joint debtor case, both husband and wife must sign this application, or if one spouse is requesting release of funds in the name of that spouse only, applicant must attach an affidavit stating why the funds should be released to only one spouse and not in the name of both.

4. Funds Locators or Attorneys Representing Debtors who are Seeking to Claim Funds Deposited in the Name of a Creditor

Funds locators or attorneys representing a debtor who is seeking to claim funds deposited in the name of a creditor must:

Submit the Local Form, “Application to Withdraw Unclaimed Funds” (LF-27), and Local Form, “Order For Payment of Unclaimed Funds” (LF-29) **and** attach to the local form application a copy of an official government photo id to prove debtor’s identity (for example driver’s license, passport) and a sworn affidavit detailing debtor’s right to the funds deposited in the name of the creditor and attach copies of any exhibits to substantiate this right. Also attach a certificate of service reflecting that a copy of the application and required attachments has been served on the creditor whose funds the debtor is seeking to claim and on the trustee who deposited the funds with the clerk of court. If funds were deposited in a joint debtor case, both husband and wife must sign the affidavit, or if one spouse is requesting release of funds in the name of that spouse only, that spouse must provide an affidavit stating why the funds should be released to only one spouse and not in the name of both.

The funds locator or attorney must also submit a “Power of Attorney” conforming to the Official Bankruptcy Form 11A “Power of Attorney”. If the debtor is a non individual, a corporate power of attorney, signed by the CEO (or other authorized signatory) of the company, sealed with the corporate seal and accompanied by a statement of the signing officer’s authority, as well as documents which established the chain of ownership of the original corporate claimant must be provided.

C. Issuance of Checks:

All checks issued as a result of an application submitted by an attorney or “funds locator” shall be made payable to the person on whose behalf application was submitted and to the “funds locator” or attorney who submitted the application so that the person on whose behalf the application was submitted is aware that a check has been issued. If the application is signed by an individual on behalf of a non individual, the check will be issued in the non individual (i.e. company) name. If the court approves an application for funds deposited in a joint debtor

case, the check shall issue in the name of both debtors, unless the court determines that the funds shall be made payable to only one of the joint debtors.

Note: Any indication of fraud related to unclaimed funds withdrawal requests will be reported to the U.S. Attorney.

If you have any questions regarding depositing or claiming funds or these guidelines and related forms, please contact this court's financial section at (305) 714-1841 or 714-1848 or write to: Financial Section, United States Bankruptcy Court, Southern District of Florida, Room 1517, 51 SW 1st Avenue, Federal Building, Miami, FL 33130-1669.