

October 29, 2024

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS

Nathan Ochsner, Clerk of Court

By Deputy Clerk 

Re: ADOPTION OF BANKRUPTCY
LOCAL RULES

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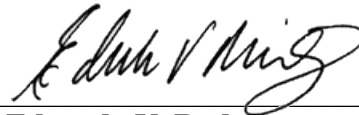
GENERAL ORDER 2024-5

ORDER

The Court earlier proposed amending Bankruptcy Local Rule 3011-1 Unclaimed Funds. The proposed amendment having been approved by the Judicial Council for the Fifth Circuit through its Rules Committee, is adopted by the Court effective October 29, 2024.

The [Bankruptcy Local Rules](#) are located on the Court's website.

Signed October 29, 2024.



Eduardo V. Rodriguez
Chief United States Bankruptcy Judge

Local Rule 3011-1. Unclaimed Funds.

- (a) A request for unclaimed funds from the Court's registry must utilize the approved form of application available on the Court's website. The application (i) must be completed in its entirety; (ii) may not be modified; and (iii) must include all attachments as set forth below. Failure to comply with the foregoing will result in denial of the application.
- (b) Except as provided in subsection (f) below, unclaimed funds deposited in the Court's registry by a trustee are presumed to be the property of the person who was named as the claimant in the order authorizing the deposit of funds by the trustee (the "Original Claimant").
- (c) If the application is filed by the Original Claimant or by an attorney authorized to practice in this Court who is appearing on behalf of the Original Claimant, the completed application must attach:
 - (1) A copy of the order authorizing the deposit of the funds into the Court's registry;
 - (2) A legible copy of the Original Claimant's driver's license or other form of government-issued ID that exhibits a photograph of the Original Claimant, redacted to comply with District Court General Order 2004-11; and
 - (3) A proposed form of order in the form on the Court's website directing that payment be made directly to the Original Claimant.
- (d) If the application is filed by or on behalf of the Original Claimant and the Original Claimant has agreed to pay any compensation or reimbursement (whether in the form of a fee, a percentage interest in the recovery, or otherwise) with respect to the recovery of any unclaimed funds, the application must attach:
 - (1) A copy of the order authorizing the deposit of the funds into the Court's registry;
 - (2) A legible copy of the Original Claimant's driver's license or other form of government-issued ID that exhibits a photograph of the Original Claimant, redacted to comply with District Court General Order 2004-11;
 - (3) An unredacted¹ copy of all agreements between the Original Claimant and the recipient of the proposed compensation or reimbursement; and
 - (4) If the compensation or reimbursement to be paid exceeds 10% of the amount of unclaimed funds deposited into the Court's registry on behalf of

¹ Redactions are permitted only to the extent necessary to comply with District Court General Order 2004-11.

the Original Claimant, a Notice, signed and dated by the Original Claimant, that states the following in at least 14-point bold type:

**NOTICE THAT YOU MAY CLAIM THESE
FUNDS WITHOUT OUR ASSISTANCE**

You may claim these funds directly from the United States Bankruptcy Court for the Southern District of Texas without our assistance.

The fees that we charge exceed the fees approved by the Court without an evidentiary hearing. Because the fees exceed that amount, you will be required to personally attend the hearing to receive your funds.

To file a claim without our assistance, you must complete the attached form and mail it to the address shown on the form. if you make the claim without our assistance, you will not be required to pay any fee to us or any other person.

Date: _____ **Signed:** _____

Sworn to and subscribed before me, the undersigned notary public.

Printed Name of Notary: _____
My Commission Expires: _____

Notary Public in and for the State of _____

The Notice must be the only writing on a single piece of paper and must be signed, dated and notarized before any agreement concerning compensation is executed by the Original Claimant.

- (5) A proposed order in the form on the Court's website directing that payment be to the Original Claimant at the Original Claimant's address.
- (e) If an application for unclaimed funds is made by an assignee of the Original Claimant, but the assignee has not yet paid in cash all consideration for the assignment, the assignee must attach each of the documents set forth in subparagraph (d) above to the application along with (1) a file-stamped copy of a Notice of Transfer for Other than Security filed in accordance with Bankruptcy Rule 3001; (2) unredacted² copies of all agreements between the assignee and the Original Claimant; (3) verified documentation reflecting the authority of the person signing the application; and (4) a legible copy of such person's driver's license or other form of government-issued ID that exhibits a photograph of such person, redacted to comply with District Court General Order 2004-11. For the purposes of determining whether a Notice of the type required by Local Rule 3011-1(d)(4)

² Redactions are permitted only to the extent necessary to comply with District Court General Order 2004-11.

above is required to be included, the percentage amount of the compensation is calculated as follows:

The numerator will be the amount determined by subtracting the amount paid or payable to the Original Claimant by or on behalf of the assignee from the amount on deposit in the Court's registry on behalf of the Original Claimant. The denominator will be the amount on deposit in the Court's registry on behalf of the Original Claimant.

For purposes of this section (e), the proposed form of order required by Local Rule 3011-1(d)(5) may direct that disbursements be made payable to the Original Claimant at the assignee's address.

- (f) If an application for unclaimed funds is made by an assignee of the Original Claimant and the assignee has paid in cash all consideration given in exchange for the assignment, the application must attach:
 - (1) A copy of the order authorizing the deposit of the funds into the Court's registry;
 - (2) A legible copy of the Original Claimant's driver's license or other form of government-issued ID that exhibits a photograph of the Original Claimant, redacted to comply with District Court General Order 2004-11;
 - (3) Verified documentation reflecting the authority of the person signing the application and a legible copy of such person's driver's license or other form of government-issued ID that exhibits a photograph of such person, redacted to comply with District Court General Order 2004-11;
 - (4) Unredacted² copy of all agreements between the assignee and the Original Claimant and if the assignee is not the original assignee from the Original Claimant, unredacted² copies of all agreements that establish that the assignee has the sole right to receive the unclaimed funds;
 - (5) A document (such as a canceled check or proof of a wire transfer) showing that the all of the consideration has been paid to the Original Claimant for the original assignment;
 - (6) A file-stamped copy of a Notice of Transfer for Other than Security filed in accordance with Bankruptcy Rule 3001; and
 - (7) A proposed form of order in the form on the Court's website directing that payment be made directly to the assignee.
- (g) Any party in interest seeking a variance from this rule may file a motion showing good cause for such a variance. The motion must be electronically filed utilizing the Court's CM/ECF filing system and must be self-calendared for hearing. Notwithstanding anything in a judge's procedures to the contrary, no telephonic

appearances will be allowed at the hearing. The Original Claimant must appear as a witness at any hearing requesting a variance from this rule; provided, that if the Original Claimant is deceased, the Original Claimant's executor or administrator may appear; and, if there is no executor or administrator, all of the Original Claimant's heirs may appear with a certified copy of any will.

- (h) Applications for unclaimed funds that do not meet one of the following criteria will be set for a hearing.
 - (1) Filed by the original payee with the same address to which the original payment was remitted.
 - (2) Filed by the debtor's original counsel of record in the case.
 - (3) Filed by a funds locator who is on the Court's list of approved funds locators.