

## **RULE 67**

### **COURT REGISTRY FUNDS – DEPOSITS AND INVESTMENTS**

- 1) Unless an applicable statute requires or allows for the deposit of funds without Court consent, no funds will be tendered to the U.S. District Clerk's Office for deposit into the Court's registry absent a Court order signed by a judge.
- 2) In accordance with 28 U.S.C. § 2041, all funds received into the Court's registry in civil cases will be invested in an interest bearing account established by the Clerk, pursuant to an order of the Court. Investment accounts will be established only with federally insured banking institutions qualified to pledge security collateral for the full amount of the investment, in the name and to the credit of this Court. The banks currently authorized to pledge collateral to secure Court investment funds within the Western District of Texas are the Bank of America and the Frost Bank.
- 3) Motions and proposed orders to deposit monies on behalf of a minor child will identify the minor by initials only. The proposed order will include language advising that personal identifiers, including the minor's full name, address, and proof of the minor's social security number and birth date will be provided under separate cover to the divisional office financial deputy within five (5) business days after the order is entered.
- 4) Parties requesting timed and/or specific types of investment instruments (e.g., 5 year Certificate of Deposit), will include appropriate language in the motion and proposed order. Please note that timed instruments closed prior to the specified period of the investment term offered by the bank are subject to early withdrawal penalties.
- 5) Before filing a motion and proposed order to invest Court registry funds, counsel will submit a copy to the financial deputy in the division where the deposit will be made. The financial deputy will advise counsel if modifications to the investment language are necessary.
- 6) When the Court approves and enters an investment order, the Clerk shall take all reasonable steps to receipt the funds into the Court registry, and deposit the funds into an interest bearing bank account or instrument within, but not more than fourteen (14) days after a signed copy of the order has been received by the financial deputy.
- 7) Any party who obtains an order directing the Clerk to invest funds previously deposited in the Court's registry, shall, within fourteen (14) days after service of the order on the Clerk, verify with the financial deputy that the funds have been invested as directed by the Court's order.
- 8) Failure to verify that funds have been invested pursuant to the Court's order shall release the Clerk from any liability for the loss of potential interest earned on such funds.
- 9) Any change in the terms or conditions of an investment shall be by Court order only and counsel will be required to state the reason for the change(s) in a motion and proposed order.
- 10) Absent special circumstances, cash bail proceeds are not eligible to be deposited into an interest bearing account in this district unless the Court directs otherwise.
- 11) All motions and proposed orders directing the Clerk to invest funds deposited into the Court's registry will reflect language advising:
  - a) the reason for the deposit of funds into the Court registry account;
  - b) other information that may be deemed appropriate under the facts and circumstances of the specific case;
  - c) that the Clerk will, as soon as the business of his office allows, deposit the funds into an interest bearing account earning the highest rate of interest at a banking institution approved by the Clerk, [contact divisional office financial deputy for name of approved bank(s)], and that the Clerk is to receive an indicia of ownership payable to:

United States District Court  
for the Western District of Texas  
Clerk of Court, Trustee  
Civil Action Number: \_\_\_\_\_  
Tax I.D. 74-6252093

OR, on behalf of a minor child:

(Insert Minor's initials)  
A Minor, by Clerk, U.S. District Court, Trustee  
Divisional Office Address, including Room #  
City, TX ZIP Code

- d) that upon maturity of said investment, the principal amount plus accrued interest shall be automatically reinvested without further instructions from the Court. The investment shall be for the same length of time as the original investment at the prevailing interest rate. This "roll-over" procedure will be followed at the maturity of each investment unless the Court orders otherwise. The initial investment and subsequent re-investments will be subject to the collateral provisions found in 31 CFR PART 202;

OR, if the deposit is on behalf of a minor child:

that on maturity of said investment, the principal amount plus accrued interest shall be automatically reinvested without further instructions from the Court, until the minor child, (*identify minor child by initials only*), reaches the age of eighteen 18 years, at which time said account, less the applicable registry fees will be delivered to the minor child, all the foregoing subject however to further orders of this Court;

- e) that the Clerk will deduct a registry fee authorized by the Judicial Conference Schedule of Fees implemented by the Administrative Office of the United States Courts effective February 3, 1992 for the handling and servicing of interest-bearing accounts deposited to financial institutions pursuant to 28 U.S.C. § 2041 and Rule 67 of the Federal Rules of Civil Procedure. The amount of the fee shall be equal to ten percent (10%) of all income earned during the first five years, seven and a half percent (7.5%) of all income earned during years six through ten, five percent (5%) of all income earned during years eleven through fifteen, and two and a half percent (2.5%) of all income earned after fifteen years while funds are held in the Court's registry;
- f) that the financial institution, without further order of the Court, shall issue a check payable to the CLERK, U. S. DISTRICT COURT for the percentage of income earned as set forth above at the end of each five year period or when the account is closed, whichever occurs sooner, as requested by the Clerk. All remaining sums shall continue to be invested as previously outlined until further order of the Court.

**RULE 67**

**DISBURSEMENT OF REGISTRY FUNDS INFORMATION**

1. Under [28 U.S.C. § 2042](#), the withdrawal of registry funds must be authorized by Court Order. The Order should be unambiguous regarding the terms of the disbursement and will include:
  - a. the identity of the payee(s);
  - b. the principal amount of each payment (dollar amount or sum certain);
  - c. the percentage of interest earnings payable to each payee;
  - d. the name of the bank at which the funds are on deposit;
  - e. the type of account(s) and account number(s) from which each payment will be made;
  - f. registry fee language as necessary, (see sample language);
  - g. language stipulating that complete addresses and tax identification numbers/social security numbers for those payees receiving interest proceeds must be forwarded under separate letter to the attention of the financial deputy within five (5) business days after the Order has been signed.
2. Following is sample language reflecting multiple payments from an investment account:

IT IS THEREFORE ORDERED that as soon as the business of his office allows, the Clerk of the United States District Court, Western District of Texas, will direct Bank of America to close Certificate(s) of Deposit Number(s) \_\_\_\_\_, and release to the Clerk, principal monies in the amount of \$\_\_\_\_\_, plus all accrued interest through the date of withdrawal, less the applicable registry fee. The Clerk will further direct Bank of America to issue cashier's checks payable as follows:

a. Registry Fee Disbursement:

To the Clerk, U.S. District Court, ten percent (10%) of all interest earned on the account through the date of withdrawal, representing the five year registry fee authorized by the Judicial Conference Schedule of Fees, pursuant to 28 U.S.C. §2041 and Rule 67 of the Rules of Civil Procedure;

b. Disbursement to Payee – no interest:

To John L. Smith in payment for legal fees associated with representation of the claimants, \$5,000.00 from the principal

John L. Smith	\$ 5,000.00
Mailing Address	

c. Disbursement to Payees including interest:

Thomas Earl Johnson	\$ 19,000.00 principal plus 50% of the interest earned less the applicable registry fee
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Richard Blake Johnson	\$ 28,500.00 principal plus 50% of the interest earned less the applicable registry fee
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3. Payment will not be forwarded to payees receiving a portion of the interest earned on the investment until a mailing address and tax I.D. information has been received by the financial deputy of the Clerk's Office.
4. Disbursed funds which are returned unclaimed will be re-deposited by the Clerk into the Registry Account of the Court, which is a non- interest bearing account.