### 3011-1 <u>Unclaimed Funds</u>

(a) Request for Unclaimed Funds, In General -

A request for payment of unclaimed funds must be made by written motion. The motion must be filed with a notice that substantially complies with Official Form 20A; with a signed certificate of mailing reflecting service of the motion on the debtor, debtor's counsel, and United States Attorney for the Southern District of West Virginia; and with a proposed order. The notice must allow twenty-one (21) days for written responses and objections to be filed. The motion must state:

- (1) The name, address, telephone number and a brief history of the creditor/claimant from the date of filing of the claim to present (to reflect possible reasons for the funds not being deliverable at the time of original distribution);
- (2) Whether the claim has been assigned to the creditor (If so, copies of all documents evidencing the assignment must be appended to the motion.);
- (3) Whether or not the creditor/claimant believes that any other party may assert entitlement to the funds.
- (b) Additional requirements for the representative of the estate of a deceased claimant -

Certified copies of all probate documents substantiating the right to act on behalf of the decedent's estate must be filed with the motion.

- (c) Additional requirements for any other entity representing the interest of a creditor/claimant:
  - (1) A corporation must be represented by counsel. In addition, as proof of entitlement to a claim a creditor/claimant that is a successor corporation, must provide documentation that establishes the chain of succession to the original corporate claimant.
  - (2) A motion for return of unclaimed funds made on behalf of a debtor, by an attorney, representative or agent, including by use of a power of attorney, must provide the details of contractual agreements between the debtor and attorney, representative or agent, and the amount of compensation to be paid/received by the attorney, representative or agent. Copies of the documents must be attached. When representation of a creditor/claimant is based on a power of attorney, an original of the power of attorney must be filed with the motion.

The motion must contain a certificate of a notary public, with the notary's seal, and a statement that the notary has examined the documents presented which established the creditor/claimant as the party identified in the motion.

Note:

The current practice followed by the Court is that all unclaimed funds collected by the Court are to be immediately deposited into the United States Treasury and not into the registry of the Court. The Unclaimed Funds Registry is available to the public by contacting the Bankruptcy Court Clerk's Office.

If a hearing is not scheduled and if no objections are filed within twenty-one (21) days after all required documentation is filed, the Clerk will prepare an appropriate order for the Court.

Any payment made to a claimant represented by counsel will be issued jointly to the claimant and attorney and will be mailed to the claimant's counsel.

The United States Trustee is served via the Court's electronic filing system.

Reference:

11 U.S.C. § 347; FBR 3011; Official Form 20A

See Also:

SDLR 9011-2 (Pro Se Parties)

Compare:

NDLR 3011-1

### UNCLAIMED FUNDS IN CHAPTER 7, CHAPTER 12, AND CHAPTER 13 CASES

### (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. The Unclaimed Funds Ledger is available to the public in person at the Bankruptcy Court Clerk's Office in Charleston, West Virginia, or by written request for such ledger.

### (B) Motion for Payment of Unclaimed Funds

### 1. Requirements for Pro Se Claimant - Self Representation

A request for payment of unclaimed funds must be in writing and filed with the Court in the form of a motion (see attached Local Form 3011-1). The motion must:

- (a) state the debtor's name, the bankruptcy case number, the bankruptcy trustee in the case (if any);
- (b) state the name, address, telephone number of the claimant;
- (c) state a brief history of the claim from the date of filing of the claim to present (to reflect possible reasons for the funds not being deliverable at the time of original distribution);
- (d) state whether the claim has been assigned to the claimant, and if so, copies of all documents evidencing the assignment must be appended to the motion;
- (e) state whether or not the claimant believes that any other party may be entitled to the funds;
- include a certificate of mailing reflecting that the motion was served, pursuant to 28 U.S.C. §2042, on the United States Attorney for the Southern District of West Virginia, Post Office Box 1713, Charleston, WV, 25326, and on the debtor and the debtor's counsel (the United States Trustee and case trustee will be served via the Court's electronic filing system);
- (h) if the creditor/claimant is a corporation, it must be represented by an attorney who is a member of the bar of this Court. In addition, if the creditor/claimant is a successor corporation, the creditor/claimant shall provide documentation establishing the chain of ownership of the original corporate claimant as proof of entitlement to the claim.

## (2) Requirements for the representative of the estate of a deceased claimant

The representative of the estate of a deceased claimant must comply with all requirements in paragraph (1) above. In addition, certified copies of all probate documents to substantiate the representative's right to act on behalf of the decedent's estate must be attached to the motion as proof of entitlement.

### (3) Requirements for any other entity representing the interest of a claimant

The representative of a claimant must comply with all requirements in paragraph (1) above. In addition:

If the representative asserts authority to represent the interests of an individual claimant as the result of a power of attorney, a copy of the power of attorney must be filed with the motion.

If the representative is a corporation, it must be represented by counsel in accordance with these local rules.

If the representative files a motion for payment of unclaimed funds on behalf of a claimant who is the debtor in the case, copies of any contractual agreements containing the amount of compensation to be received by the representative, as well as any power of attorney, must be filed with the motion.

Parties will be allowed twenty (20) days from the date of service of the motion to file written objections to the motion. If no written objection is timely filed, the Court may enter an order granting the motion without further notice. In the event there is any discrepancy in the motion, or if the Court has any question with regard to the propriety of granting relief, a hearing will be scheduled and the proper individuals expected to attend. Upon the entry of an order granting the motion, the Clerk will forward the proper documents to the Clerk's disbursing agent for payment.

# UNITED STATES BANKRUPTCY COURT FOR THE SOUTHER DISTRICT OF WEST VIRGINIA

Request for Claims
Deposited into the U.S. Treasury Registry Account

# THE BURDEN OF PROOF LIES WITH THE CLAIMANT/REQUESTOR AND MUST BE SUBMITTED BY WRITTEN REQUEST

The Court requires that you supply two (2) forms of evidence that you are, indeed the correct debtor or creditor(s) of the funds deposited into the registry of the court.

### SUGGESTED FORMS OF EVIDENCE:

A copy of Driver's License A copy of Social Security Card
A copy of Marriage Certificate or Dissolution(Divorce) Decree if name has changed.
A copy of a document with former address on it.
Company's letter head
Corporate seal.
Company business card
Incorporated or Formed documents with year, state, and federal employee ID Number.
Copy of proof of claim or other document from the case.
If claimant is deceases, appropriate documentation to establish that the person executing
the request is authorized to act on behalf of the decedent's estate (e.g., certified copies of
all probate documents including a copy of the death certificate and appointment of
executor) is attached.
If claimant is a corporation, partnership or other entity named as the Claimant in the
Trustee's unclaimed funds, the person acting on behalf of the Claimant should indicate that
he or she has reviews all records of the Claimant and states that no other request for this
claim has been submitted by or at the request of Claimant. Documentation that establishes
that the person executing the request is authorized to submit the request must be attached
or the request will be returned (e.g. board meeting minutes and articles of incorporation, current list of officers and directors, affidavit of secretary with copy of directors' resolution
authorizing execution of the request or officer's certificate establishing that the corporate
authorizing execution of the request of officer's certificate establishing that the corporate
officer executing the request is authorized to so act.  If the requesting party is a successor in interest to a previous corporation claimant, then
documentation must be attached to establish the legal right of the applicant to the accounts
receivable of the claimant corporation(e.g., documents establishing the chain of ownership
of the original corporate claimant, proof of sale of the company, new or prior owners, and a
copy of the terms of any purchase agreement or stipulation by prior and new owners of
right of ownership to unclaimed funds). Copies of all documents evidencing assignment
must be appended to the request.
If the requesting party is an attorney or a "funds locator" who has been retained by the
claimant, a notarized "power of attorney" from an individual claimant or from the duly
training a nominate porter of assorting them and training a nominate of the same of the sa

### NOTICE OF MOTION OR OBJECTION

Official Form 20A, Notice of Motion or Objection, is intended to provide uniform, plain English explanations to parties regarding what they must do to respond in certain contested matters which occur frequently in bankruptcy cases. Previously, some courts have given such explanations better than others. The form is intended to make bankruptcy proceedings more fair, equitable, and efficient by aiding parties, who sometimes do not have counsel, in understanding the applicable rules.

The form is not intended to dictate the specific procedures to be used by different bankruptcy courts. The form contains optional language that can be used or adapted, depending on local procedures.

### I. APPLICABLE LAW AND RULES

Rule 9014 of the Federal Rules of Bankruptcy Procedure (referred to as "Fed. R. Bankr. P." or "Bankruptcy Rule") requires that a person who asks the court to take certain types of action (referred to as requesting relief) do so by filing a motion and giving the person against whom the relief is sought notice of the motion and an opportunity to respond. Examples of these contested matters include motions by creditors for relief from the automatic stay under Rule 4001(a); motions by debtors to avoid liens on exempt property under Rule 4003(d); and motions by trustees to assume, reject, or assign unexpired leases under Rule 6006(a). Form 20A also should be used to give notice to the debtor when the trustee or a creditor objects to the debtor's claim of exemptions under Rule 4003(b) or requests that the court modify the debtor's confirmed chapter 12 or chapter 13 plan under Rule 3015(g).

Bankruptcy Rule 9009 states that the Official Forms shall be used with alterations as may be appropriate. Any adaptation of Form 20A should carry out the intent to give notice of applicable procedures in easily understood language.

### II. DIRECTIONS

1. Directions for the person preparing the notice are in italics and enclosed in brackets on the Official Form. Only the language which applies to the particular motion or objection under the Bankruptcy Rules, the court's local rules, or court order should be included in the notice. Links to local bankruptcy rules are posted on the Judiciary's Internet web site at <a href="http://www.uscourts.gov/rules/bk-localrules.html">http://www.uscourts.gov/rules/bk-localrules.html</a>. The notice may be modified to the particular requirements of the matter, but any adaptation should be consistent with the intent to give notice of applicable procedures in easily understood language. *See* Fed. R. Bankr. P. 9009.

# United States Bankruptcy Court \_\_\_\_\_\_District of \_\_\_\_\_\_

In re		)
	Debtor	) Case No
Address		) )
	al Security or Individual Tax-payer Identific	cation ) Chapter
Employer's Tax Identifi	cation (EIN) No(s).(if any):	
	NOTICE OF [MOTION TO ] [C	OBJECTION TO ]
ha	s filed papers with the court to [relief sough	nt in motion or objection].
Your rights m attorney, if you have o one.)	nay be affected. You should read these pa ne in this bankruptcy case. (If you do not	pers carefully and discuss them with your thave an attorney, you may wish to consult
If you do not v your views on the [moti	vant the court to [relief sought in motion or ion] [objection], then on or before , yo	objection], or if you want the court to consider ou or your attorney must:
[File with the explaining you		he court requires a written response, an answer,
	ur {request}{response} to the court for filing r before the date stated above.	g, you must mail it early enough so the court will
You must also	mail a copy to:	
[Attend the head States Bankrup	aring scheduled to be held on ,, ottoy Court,	, at a.m./p.m. in Courtroom , United
If you or your sought in the motion or	attorney do not take these steps, the court m objection and may enter an order granting t	nay decide that you do not oppose the relief that relief.
Date:	Signature:	
	Name: Address	

### Form B20A Page 2

- 2. The notice should be prepared and sent by the person who filed the motion or objection (the movant) unless the local rules or court order provide for some other entity to give notice.
- 3. The caption should be placed at the top of the page and should conform to Official Form 16A. Instructions for Official Form 16A, Caption (Full), are posted with that form.
- 4. The name of the movant and a description of the relief requested from the court should be inserted in the first paragraph in the spaces indicated.
- 5. The action which the court has been asked to take and the deadline for responding to the motion or objection should be specified in the third paragraph in the spaces indicated.
- 6. In the space following the third paragraph, the person preparing the notice should specify whether the person receiving the notice must file a written request for a hearing or a written response in order to oppose the motion or objection. The address of the bankruptcy clerk's office, and the names and addresses of the movant's attorney and others to be served should be set out in the spaces indicated.
- 7. If a hearing has been scheduled on the motion or objection, the time, date, and place for the hearing should be specified in the space provided.
- 8. Any additional steps required to oppose the motion or objection under the local rules or court order should be set out in the space provided.
- 9. The person who prepares and sends the notice should sign and date the notice and set out the preparer's name and address in the spaces indicated.
- 10. Copies of the notice should be filed with the court and mailed to the person against whom relief is sought, that person's attorney (if any), and other parties as required by local rules or court order.

### UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

In re		Case No				
	· · · · · · · · · · · · · · · · · · ·	Chapter				
	tor(s).					
	MOTION FOR PAYMENT	OF UNCLAIMED FUNDS				
		for entry of an order directing the Clerk to, which was deposited into the Trustee, as unclaimed funds for ("Claimant").				
Mov	ant certifies, under penalty of p	perjury, that:				
1.		e Treasury of the United States are owed to oof of claim # filed with the Clerk on				
2.	The Claimant is:					
3.	the Claimant's behalf. The	een paid to the Claimant or to any agent on funds were not deliverable at the time of				
4	The claim has not/has been been assigned, copies of all attached to this motion;	assigned to the claimant. If the claim has documents evidencing the assignment are				
5.		eve/believes that any other party may be Claimant believes any other party may be explanation				
6.	No other motion is pending f	for recovery of the same unclaimed funds.				

	cense or other photo identification is
Claimant, as shown by the proof that the Movant is Claimant. If the Claimant contractual agreements contractual by the representation.	to collect the funds on behalf of the ne attached Power of Attorney or other is an authorized representative of the is the Debtor in this case, copies of any ontaining the amount of compensation to entative are also attached to this motion. or eased, certified copies of all probate to this motion as proof of entitlement.
date of service of this motion. In the event Court may enter an order granting the motion	objection within twenty (20) days of the no written objection is timely filed, the n without further notice.
Dated:	Signature of Movant or Representative
	Printed Name of Movant or Representive
	Address
	Telephone Number
CERTIFICATE O	F SERVICE
I hereby certify that, on the, I mailed a copy of the foregoing t	day of, to the following:
Office of the U.S. Attorney Southern District of West Virginia Post Office Box 1713 Charleston, West Virginia, 25326	
Debtor(s) - Names(s) and address	
Counsel for Debtor(s) - Name and add	ress
The United States Trustee and case	e trustee were served via the Court's

electronic filing system.

# UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

n re Case Number						
Movant(s).						
	CERTIFICATE OF S	SERVICE				
and notice upon the true copies of these	e following parties at the	erved both the attached motion addresses listed, by mailing il, first class, postage prepaid,				
1.						
2.						
3.						
4.						
Dated:						
		Movant				
		Movant				

## UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

In re	Case Number:
Debtor.	
	CHANGE OF NAME OR ADDRESS
Please be advised of the fo	llowing:
Since the filing of the above-styled	case my
Name Changed from	to
Address Changed from _	
To	
Please change you records according	agly
riease change you records according	igiy
Signed	
Signeu	
Dated	

## UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF WEST VIRGINIA

ROBERT C. BYRD U. S. COURTHOUSE 300 VIRGINIA STREET EAST, ROOM 3200 CHARLESTON, WEST VIRGINIA 25301

Matt Hayes Clerk of Court



Telephone: 304-347-3003 Fax: 304-347-3018

### IRS 1099 Guideline Changes AO213 Vendor Information/Certification

Effective January 2012

IRS Regulations require that federal agencies provide an IRS 1099-MISC for payments of at least \$600.00 for services and other income payments. For the purpose of payment disbursement, any entity receiving disbursement for unclaimed funds, refunds, etc. is referred to as *Vendor*.

Effective immediately, the Court is required to update all vendors EIN/TIN or social security number records and collect socio-economic information to facilitate accurate 1099 issuance and proper check validation.

Attached is an official form AO213, Vendor Information/Certification to be completed for any disbursement made by the U.S. Bankruptcy Court.

Failure to comply will result in a IRS TIN Mismatch Report and back-up withholding of 28% must be applied against payments made to that vendor.

Please complete the attached AO213 form and return with your request for disbursement of funds to U.S. Bankruptcy Court, 300 Virginia St., East, Charleston, WV 25301.

AO 213 (Rev. 06/12)

### ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS Accounting and Financial Systems Division

### Sensitive Information VENDOR INFORMATION/TIN CERTIFICATION

□ Ex-AO	Employee
□ SAM \ (Former	
(No TIN Certif	îcation Required)

Vendor Address	Other Address (If different from Vendor Address)			
Select all that apply ☐ Order ☐ Remit ☐ 1099	Select all that apply ☐ Order ☐ Remit ☐ 1099			
Name:	Address:			
Business Name: (if different from above)	City:			
Address 1:	State: Zip Code:			
Address 2:	Telephone #:			
City:	Description:			
State: Zip Code:	(If needed)			
Taxpayer Identification #: (TIN, SS, or EIN number)				
DUNS#				
Financial Info	ormation (If Requested)			
Bank Name:	Routing # (this nine digit number appears on your checks, but do not include individual check numbers):			
City:	Account #:			
State: Zip Code:	Type of Account: (select one)			
Type of Organization for 1099 reporting:				
☐ sole proprietorship;	☐ partnership;			
☐ corporate entity (not tax-exempt);	☐ corporate entity (tax-exempt);			
☐ health care provider;	dother:			
government entity (write in either federal, state or loc				
	mi)			

### **Taxpayer Identification Number Certification**

Under penalties of perjury, I certify that:

- 1. The Taxpayer Identification Number listed in the Vendor Address area above is the correct number assigned to me, and
- 2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest and dividends, or (c) the IRS has notified me that I am no longer subject to the backup withholding, and
- 3. I am a U.S. citizen or other U.S. person (defined below).
- ☐ You must select this check box if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. If you make a false statement with no reasonable basis that results in no backup withholdings, you are subject to a \$500 penalty. Willfully falsifying certifications or affirmations on this form may subject you to criminal penalties including fines and/or imprisonment.

AO 213 (Rev. 06/12)

#### **Definitions:**

Please type or print clearly.

"Taxpayer Identification (TIN, SS, or EIN number)" is the number required by the Internal Revenue Service (IRS) to be used in reporting income tax and other returns. The TIN may be either a social security number (SSN) or an employer identification number (EIN).

"U.S. person" means:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States.

The TIN, as well as the information above is required in order to comply with debt collection requirements of 31 U.S.C. §§ 7701(c) and 3325(d), reporting requirements of 26 U.S.C. §§ 6041 and 6041A, and implementing regulations issued by the IRS. Failure or refusal to furnish this information may result in 28 percent backup withholding on any payments otherwise due under any awarded contract or purchase order.

The TIN may be used by the government to collect and report on any delinquent amounts arising out of the vendor's relationship with the government  $(31 \text{ U.S.C.} \S 7701(c)(3))$ . The TIN provided may be matched with IRS records to verify its accuracy.

The vendor is a nonresident alien, foreign corporation or foreign partnership that does not have income effectively

Complete this section only if a TIN was not provided on page one, and select closest reason why not:

		d with the conduc I paying agent in t				in the Unite	ed States	es and does not have an office or place of busine	SS
	The vend	dor is an agency o	r instrı	umental	lity of a f	oreign gove	ernment;	;	
		Additional	l infor			d for vendo ers, contrac		l for procurement )	
Indicate which, i management and	f any, of I daily or	the following cat perations are contr	egorie: rolled l	s are ap	plicable. or more r	These cate	egories re the selec	require that the vendor is 51% owned and the exted socio-economic group:	
ō	Women	Owned Business						Not Applicable	
o	Minority	y Owned Business	s (If yes,	, select or	ne of the ov	ner's race/eth	nicity sele	ections from below):	
	☐ As	sian-Pacific Amer	ican		Black A	merican		Subcontinent Asian (Asian-Indian)American	
	🗇 Hi	spanic American			Native A	American		Other:	
Date:									
								Vendor's signature	
For Agency Use The vendor name CCR). (Check w	e and DU	JNS number is all 1.gov for registrat	that is	s requiratus.) Do	ed for reg	gistered Sys this form fo	tem for a	Award Management (SAM) vendors (formerly hase card merchants.	
Mark Boxes that	apply:	☐ Addition		Change	e 🗆	Vendor C	ode:	(make entry only if change)	
		☐ Active		Inactiv	e 🗆	Vendor T	`ype:		
Tł	he follow	ving information i	s optic	nal for	individu	als whose n	ame and	d telephone are already on the form:	
Contact Name:									_
Telephone Num	ıber:					Ema	il:		
			Ider	ntificati	on of per	son making	this req	quest:	
Name:									'
Telephone Num	ıber:				Origi	nating Offic	ce:		

For "AO" FAS4T Users only, e-mail the completed form to: AOdb OFB Client Service Desk/DCA/AO/USCOURTS. For questions

For "Court" FAS4T Users, send this form to the local Vendor Administrator. For questions regarding Court FAS4T please contact

This form should be completed with signature by the vendor and submitted by Judiciary staff only. Sensitive information must be securely maintained and only visible to the appropriately designated financial employee.

SDSD at (210) 301-6320.

regarding AOFAS4T the Client Service Desk can be contacted at (202) 502-2242.