

*United States Bankruptcy Court
for the
Southern District of West Virginia*



LOCAL BANKRUPTCY RULES

November 2012

3011-1

Unclaimed Funds

(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

Instructions for Filing Application for Payment of Unclaimed Funds

United States Bankruptcy Court, Southern District of West Virginia

Unclaimed funds are held by the court for an individual or entity who is entitled to the money but who has failed to claim ownership of it. The United States Bankruptcy Court, as custodian of such funds deposited in this District, has established policies and procedures for holding, safeguarding, and accounting for the funds.

I. Searching Unclaimed Funds

To search unclaimed funds, use the [Unclaimed Funds Locator](https://ucf.uscourts.gov/) at <https://ucf.uscourts.gov/>. Select WWSB from the drop-down list and enter the applicable search criteria. If you need access to a computer to perform the search, you may use the court's public computer terminal located at 300 Virginia Street East, Room 3200, Charleston, West Virginia 25301. Additionally, you may contact the Clerk's office at 304-347-3003 to verify unclaimed funds balances.

II. Filing Requirements for Payment of Unclaimed Funds

a. Notice / Motion for Payment of Unclaimed Funds

Any party who seeks the payment of unclaimed funds must file the appropriate notice or motion for Payment of Unclaimed funds in substantial conformance with the court's local rules and serve a copy of the application on the United States Attorney for the Southern District of West Virginia. For purposes of this procedure, the "Applicant" is the party filing the application, and the "Claimant" is the party entitled to the unclaimed funds. The Applicant and Claimant may be the same.

b. Supporting Documentation

1. Payee Information

Funds are payable to the Claimant. In conjunction with the Application for Payment of Unclaimed Funds, Claimant's tax identification number (TIN) must be provided to the court on a certification form signed by the Claimant to whom funds are being distributed.

A. Domestic Claimant

A Claimant who is a U.S. person¹ must use either the [AO 213](#) or W-9 certification form (accessible by searching on the Internal Revenue Service (IRS) website at: <https://www.irs.gov/>).

¹ "U.S. person" includes: an individual who is a U.S. citizen or U.S. resident alien; a partnership, corporation, company or association created or organized in the U.S. or under the laws of the U.S.; an estate (other than a foreign estate); or a domestic trust (as defined in 26 C.F.R. 301.7701-7).

If a Claimant wants payment via Electronic Funds Transfer (EFT), then the [AO 213](#) form must be used. Form AO 213 is attached to these instructions.

B. Foreign Claimant

A foreign Claimant must use a W-8 certification form (accessible by searching on the IRS website at: <https://www.irs.gov/>) accompanied by the [AO-215](#) form.

C. Funds Payable to an Unclaimed Funds Locator

If an application to pay unclaimed funds is granted and the an applicant is an unclaimed funds locator, the court will make the funds payable to both the original claimant and the unclaimed funds locator.

2. Additional Supporting Documentation

Requirements for additional supporting documentation vary depending on the type of Claimant and whether the Claimant is represented. Please read the instructions below to identify what must accompany your Application for Payment of Unclaimed Funds.

Sufficient documentation must be provided to the court to establish the Claimant's identity and entitlement to the funds. Proof of identify must be provided in unredacted form with a current address. If there are joint Claimants, then supporting documentation must be provided for both Claimants.

A. Owner of Record

The Owner of Record is the original payee entitled to the funds appearing on the records of the court. If the Claimant is the Owner of Record, the following additional documentation is required:

i. Owner of Record - Individual

- a. Proof of identity of the Owner of Record (*e.g.*, unredacted copy of driver's license, other state-issued identification card, or U.S. passport that includes current address); and
- b. A notarized signature of the Owner of Record (incorporated in application).

ii. Owner of Record - Business or Government Entity

- a. Application must be signed by an authorized representative for and on behalf of the business or government entity;
- b. A notarized statement of the signing representative's authority; and
- c. Proof of identity of the signing representative (*e.g.*, unredacted copy of driver's license, other state-issued identification card, or U.S. passport that includes current address).

If the Owner of Record's name has changed since the funds have been deposited with the Court, then proof of the name change must be provided.

B. Successor Claimant

A successor Claimant may be entitled to the unclaimed funds as a result of assignment, purchase, merger, acquisition, succession or by other means. If the Claimant is a successor to the original Owner of Record, the following documentation is required:

i. Successor Claimant - Individual

- a. Proof of identity of the successor Claimant (*e.g.*, unredacted copy of driver's license, other state-issued identification card, or U.S. passport that includes current address);
- b. A notarized signature of the successor Claimant (incorporated in application); and
- c. Documentation sufficient to establish chain of ownership or the transfer of claim from the original Owner of Record.

ii. Successor Claimant – Business or Government Entity

- a. Application must be signed by an authorized representative for and on behalf of the successor entity;
- b. A notarized statement of the signing representative's authority;
- c. A notarized power of attorney signed by an authorized representative of the successor entity;
- d. Proof of identity of the signing representative (*e.g.*, unredacted copy of driver's license, other state-issued identification card, or U.S. passport that includes current address); and
- e. Documentation sufficient to establish chain of ownership or the transfer of claim from the original Owner of Record.

iii. Deceased Claimant's Estate

- a. Proof of identity of the estate representative (*e.g.*, unredacted copy of driver's license, other state-issued identification card, or U.S. passport that includes current address);
- b. Certified copies of probate documents or other documents authorizing the representative to act on behalf of the decedent or decedent's estate in accordance with applicable state law (*e.g.*, small estate affidavit); and
- c. Documentation sufficient to establish the deceased Claimant's identity and entitlement to the funds.

C. Claimant Representative

If the Applicant is Claimant's attorney or other representative, the following documentation is required:

- i. Proof of identity of the representative (*e.g.*, unredacted copy of driver's license, other state-issued identification card, or U.S. passport that includes current

- address);
- ii. A notarized power of attorney signed by the Claimant (or Claimant's authorized representative) on whose behalf the representative is acting; and
 - iii. Documentation sufficient to establish the Claimant's identity and entitlement to the funds, as set forth above.

c. Filing the Application

The application, supporting documentation, certificate of service, and proposed order must be mailed to the court at the following address:

Clerk, United States Bankruptcy Court
Southern District of West Virginia
300 Virginia Street East, Room 3200
Charleston, West Virginia 25301

For claimants in multiple cases: a separate Application must be prepared for each case with all the above requirements attached to each Application.

d. Post-Filing Process

Generally, the Clerk affords a 21-day period after receipt of the Application for the filing of an objection. If an objection is timely filed, the Clerk will set a hearing before the Court. If the Applicant is a corporation, the Applicant must be represented by an attorney for the Court proceeding. If no objection is timely filed, and the Applicant has submitted supporting documentation to the satisfaction of the Clerk and the Court, the Court may consider the Application without a hearing. If the Application is found to be deficient by the Clerk or Court, the Clerk's Office may contact the Applicant for additional information.

If the Court grants the Application, no funds are payable by the Clerk for a period of 14-days after entry of the Court's Order. The Applicant's failure to submit a Form AO 213, or its equivalent, may result in the denial of the Application without prejudice.

III. Links

[AO-213](#)

W-9 (accessible by searching on the IRS website at: <https://www.irs.gov/>)

W-8 (accessible by searching on the IRS website at: <https://www.irs.gov/>)

[AO 215](#)

REQUEST FOR VENDOR INFORMATION AND TIN CERTIFICATION

Refer to the instructions page for further information on completing this form.

Part 1 Payee Information

Line 1. Payee Name: _____

Line 2. Additional payee information: (if applicable) _____

Part 2 Business Name (if different from above)

Enter your TIN in the appropriate box. _____

Part 3 The TIN provided must match the name given in Part 1, Line 1. EIN: _____ - _____

Enter only an EIN or SSN - NOT BOTH.

SSN: _____ - _____ - _____

Part 4 DUNS # (if applicable) _____

Part 5 Select the appropriate box below for U.S. tax classification for person or entity listed in Part 1, Line 1.

Individual or single member LLC Corporation (Payments related to medical or healthcare service providers)

LLC (Except single member) Corporation (All other payments not met by corporation category above)

(Select one:) C Corp S Corp Partnership Partnership Trust/Estate Other: _____

Part 6 Mailing Address (where payments, orders, and IRS 1099 forms will be sent)

Street address: _____

City: _____ State: _____ Zip code: _____

Point of Contact (if different from Part 1, Line 1 above) Name: _____

Phone #: _____ Email Address: _____

Part 7 Additional Address Information (if different from above)

Street address: _____

City: _____ State: _____ Zip code: _____

Part 8 Electronic Funds Transfer (EFT) Information (OPTIONAL)

Owner(s) name as it appears on bank account: _____

Bank Name: _____ Routing #: (Must contain 9 digits) _____

Payee must select an account type: (Select one) Checking Savings

Account Number: (do not include check number) _____

Part 9 Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number; 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 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 backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined in the instructions).

The IRS does not require your consent to any provision of this document other than the certifications required to avoid backup withholding.

Signature: _____ Date: _____

For Judiciary Use Only

Select those boxes that apply: Addition Change Inactive Active Vendor Code: _____ Vendor Type: _____

(Trustee or Vendor)

Vendor Administrators: Attach this form to the JIFMS MANL document. This form can also be submitted, subject to separation of duties requirements, via HEAT at: <https://nsms.ao.dcn>. The service request can be found under Financial Management Services> JIFMS Vendor Additions or Updates. For FAS4T users (CCAM only), send this form to the local court vendor administrator. For questions regarding JIFMS and court FAS4T, please contact the National Support Desk at (210) 536-5000. This form should be completed including the vendor's signature and submitted by Judiciary staff only.

Sensitive information must be securely maintained and only visible to designated staff.

General Instructions

Purpose of the AO 213

The Judiciary utilizes the AO 213 to collect information necessary to facilitate payment by EFT or U.S. Treasury check.

For many payments, the Judiciary is required to file an information return (e.g., 1099-MISC; 1099-INT) with the IRS and, therefore, must obtain payees' correct names and associated TINs to do so. If a TIN is not provided, a payee **may** be subject to backup withholding – situations where the judiciary must withhold a certain percentage to ensure the IRS receives any tax due on the payment.

Payments disbursed by the U.S. Treasury on the judiciary's behalf must collect payee TINs to comply with the [U.S. Treasury's TIN Policy](#).

Payee TINs, obtained through this form, may be used by the government to collect and report on any delinquent amounts arising out of the payee's relationship with the government.

Part 1, Line 1

Do not leave this line blank. Enter only **one** name for you or your entity. The name should match the name on your or your entity's U.S. tax return.

Individual. Generally, enter the name shown on your U.S. tax return. If you have changed your last name without informing the Social Security Administration of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note: For Individual Taxpayer Identification Number (ITIN) applicants, enter your name as it was entered on your IRS Form W-7 application, line 1a.

Sole Proprietor or Single-Member LLC. Enter your name as shown on your IRS 1040/1040A/1040EZ in Part 1. You may enter your business name or "doing business as" (DBA) name in Part 2.

Partnership, LLC (Except Single-Member LLCs), or Corporations. Enter the entity's name as shown on the entity's U.S. tax return in Part 1 and any business name or DBA name in Part 2.

Other entities. Enter your name as shown on required U.S. tax documents in Part 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business name or DBA name in Part 2.

Part 1, Line 2

If this form is being completed so that a U.S. Treasury check may be issued payable to more than one person or entity, or if an EFT payment will be issued to an account owned jointly, enter in Part 1, Line 1 the name of the person or entity whose TIN you entered in Part 3. Additional names for joint accounts or for other payees ("and," "or," or "care of") **must** be entered in Part 1, Line 2.

If payment is to be made by...	Then, enter the following...
EFT to Payee 1 AND Payee 2, co-owners of a joint account	Payee 1's name in Part 1, Line 1; Payee 2's name in Part 1, Line 2; Payee 1's TIN in Part 3.
U.S. Treasury check made payable to Payee 1, Payee 2, AND Payee 3.	Payee 1's name in Part 1, Line 1; Payee 2's name AND Payee 3's name in Part 1, Line 2; Payee 1's TIN in Part 3.
U.S. Treasury check made payable to Payee 1, Payee 2, OR Payee 3.	Payee 1's name in Part 1, Line 1;

	Payee 2's name OR Payee 3's name in Part 1, Line 2; Payee 1's TIN in Part 3.
U.S. Treasury check made payable to Payee 1, CARE OF (c/o) Power of Attorney	Payee 1's name in Part 1, Line 1; C/O Power of Attorney name in Part 1, Line 2; Payee 1's TIN in Part 3.

Part 2

If you have a business or DBA name, you may enter it in Part 2.

Part 3

Enter your or your entity's TIN in the appropriate box. **The TIN must be the TIN associated with the one person or one entity listed in Part 1, Line 1.**

If you are a resident alien and you do not have – and are not eligible to get – an SSN, your TIN is your ITIN. Enter it in the social security number box.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Part 4

If applicable, enter your entity's DUNS number,

Part 5

Check the appropriate box in Part 5 for the U.S. tax classification of the person or entity's whose name is entered in Part 1. Check only **one** box in Part 5.

Part 6

Enter your address (number, street, and apartment or suite number). This is where your paper U.S. Treasury check and any information returns (e.g., 1099-MISC; 1099-INT), if applicable, will be mailed.

Enter a point-of-contact name, email, and phone number. A point of contact is necessary if an entity is listed in Part 1, Line 1 or a point-of-contact is different than an individual listed in Part 1, Line 1.

Part 7

If you have an additional address other than the address listed in Part 6, such as a physical address that differs from a mailing address for payment and information returns, enter it here.

Part 8

The Routing Number **must** be nine digits. If you are unsure of your Routing or Account Numbers, consult your financial institution.

You must identify your account as either checking or savings to ensure our payment is accepted by your financial institution.

Part 9

You must cross out item 2 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.

For item 3, you are considered a U.S. person, for federal tax purposes, if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in, or under the laws of, the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

For a joint account, only the person whose TIN is shown in Part 3 should sign.

United States Bankruptcy Court

Southern District of West Virginia

In re _____)
[Set forth here all names including married, maiden, and)
trade names used by debtor within last 8 years.])
)
 Debtor) Case No. _____)
)
 Address _____)
 _____)
) Chapter _____)
 Last four digits of Social Security or Individual Tax-payer Identification)
 (ITIN) No(s), (if any): _____)
)
)
 Employer's Tax Identification (EIN) No(s), (if any): _____)
 _____)

NOTICE OF []

_____ has filed papers with the court to [].
Name

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to [], or if you want the court to consider your views on the [], then on or before (____), you or your attorney must:
Date

[File with the court a written request for a hearing {or, if the court requires a written response, an answer, explaining your position} at:

Robert C. Byrd U.S. Courthouse
300 Virginia Street East, Room 3200
Charleston, West Virginia 25301

If you mail your [] to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

You must also send a copy to:
{movant's attorney's name and address}
{names and addresses of others to be served}]

[Attend the hearing scheduled to be held on (____), (____), at ____ a.m./p.m. in Courtroom____,
(United States Bankruptcy Court) Date Year Time

[Other steps required to oppose a motion or objection under local rule or court order.]

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Date: _____ Signature: _____
Name: _____
Address: _____

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

IN RE

Case No. _____

Chapter _____

Debtor(s),

MOTION FOR PAYMENT OF UNCLAIMED FUNDS

_____ (name), moves this Court for entry of an order directing the Clerk to remit to the movant the sum of \$_____, which was deposited into the Treasury of the United States by _____, Trustee, as unclaimed funds for name of individual or entity for whom funds are on deposit ("Claimant").

Movant certifies, under penalty of perjury, that:

1. The funds on deposit with the Treasury of the United States are owed to the Claimant, pursuant to proof of claim # _____ filed with the Clerk on _____ (date)
2. The Claimant is: _____
3. The funds sought have not been paid to the Claimant or to any agent on the Claimant's behalf. The funds were not deliverable at the time of original distribution because _____.
4. The claim has not/has been assigned to the claimant. If the claim has been assigned, copies of all documents evidencing the assignment are attached to this motion.
5. The Claimant does not believe/believes that any other party may be entitled to the funds. If the Claimant believes any other party may be entitled to the funds, include explanation _____.
6. No other motion is pending for recovery of the same unclaimed funds.
- 7.

Movant is the Claimant. If the Claimant is an individual, a copy of the Claimant's driver's license or other photo identification is attached to this motion.

or

Movant has the authority to collect the funds on behalf of the Claimant, as shown by the attached Power of Attorney or other proof that the Movant is an authorized representation of the Claimant. If the Claimant is the Debtor in this case, copies of any contractual agreements containing the amount of compensation to be received by the representative are also attached to this motion.

or

If the Claimant is deceased, certified copies of all probate documents are attached to this motion as proof of entitlement.

Parties may object by filing a written objection within twenty-one days of the date of service of this motion. In the event no written objection is timely filed, the Court may enter an order granting the motion without further notice.

Dated: _____

Printed Name of Movant or Representative _____

Signature of Movant or Representative _____

Address: _____

Telephone number: _____

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF WEST VIRGINIA**

IN RE: DEBTOR and/or JOINT DEBTOR, Debtor(s).	CASE NO. _____ CHAPTER _____ JUDGE B. MCKAY MIGNAULT
--	---

**ORDER GRANTING
MOTION FOR PAYMENT OF OF UNCLAIMED FUNDS**

IT IS ORDERED.

IT IS FURTHER ORDERED: *only use this if necessary with the specific order.*

Note that font should be Times New Roman, 12-point.

Please use for any normal bk case form (not AP).