

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

NOTICE TO THE BAR

PROPOSED AMENDMENTS TO THE LOCAL CIVIL RULES

Notice is hereby given to the Bar and all interested parties that the United States District Court for the District of New Jersey proposes to amend the Local Civil Rules. The proposed amendments are posted for public comment as required by 28 U.S.C. § 2071(b) at

<http://www.njd.uscourts.gov>.

Amendments are proposed to the following Local Civil Rules:

Civ. RULE 67.1 DEPOSIT IN COURT AND DISBURSEMENT OF COURT FUNDS
APPENDIX D. ORDER GRANTING MOTION TO DEPOSIT SUM OF MONEY WITH THE
COURT

Civ. RULE 67.1 DEPOSIT IN COURT AND DISBURSEMENT OF COURT FUNDS

(a) Deposit in Court Pursuant to Fed. R. Civ. P. 67

(1) Receipt of Funds

(A) No money shall be sent to the Court or its officers for deposit into the Court's Registry without a court order by the Judge assigned to the case.

(B) Unless otherwise directed, all registry funds ordered to be paid into the Court or received by its officers in any case pending or adjudicated shall be deposited with the Treasurer of the United States in the name and to the credit of this Court pursuant to 28 U.S.C. § 2041 through depositories designated by the Treasury to accept such deposit on its behalf.

(C) The party or attorney making the deposit or transferring funds to the Court's Registry shall personally serve the order permitting the deposit or transfer on the Clerk of Court, the Chief Deputy of Administration, Chief Deputy of Operations, or Finance Manager. Failure to personally serve a copy of the order to invest shall release the Clerk and any Deputy Clerk from any liability for the loss of interest which could have been earned on the funds.

(2) Orders Directing Investment of Registry Funds by Clerk

(A) Where, by order of the Court, funds on deposit with the Court are to be placed in some form of interest-bearing account, the Court Registry Investment System (~~C.R.I.S.~~) ("CRIS") administered by the Administrative Office of the United States Courts under 28 U.S.C. § 2045, shall be the only investment mechanism authorized. The Director of the Administrative

Office of the United States Courts is designated as Custodian for all CRIS funds. The Director or the Director's designee shall perform the duties of Custodian. Funds held in the CRIS remain subject to the control and jurisdiction of the Court.

~~(B) Funds~~ Money from each case deposited in each case under C.R.I.S. the CRIS shall ~~will~~ be "pooled" together with those on deposit with the Treasury to the credit of other courts in the ~~C.R.I.S.~~ CRIS and used to purchase Government Account Series securities through the Bureau of Public Debt, which will be held at the Treasury, in an account in the name and to the credit of the Director of the Administrative Office of the United States Courts. ~~hereby designated Custodian ("Custodian") for C.R.I.S.~~ The pooled funds will be invested in accordance with the principles of the CRIS Investment Policy as approved by the Registry Monitoring Group.

~~(C)An account for each case~~ will be established in the ~~C.R.I.S.~~ CRIS Liquidity Fund titled in the name of the case giving rise to the deposit investment in the ~~system~~ fund. Income generated from fund investments will be distributed to each case based on the ratio ~~which~~ each account's principal and earnings ~~have~~s to the aggregate principal and income total in the fund after the CRIS fee has been applied. Reports showing the interest earned and the principal amounts contributed in each case will be available through the FedInvest/CMS application for prepared and distributed to each court participating in ~~C.R.I.S. the CRIS~~ and made available to litigants and/or their counsel on request. (See Form of Order at Appendix D.1)

(D)Interpleader funds deposited under 28 U.S.C. § 1335 meet the IRS definition of Disputed Ownership Funds ("DOFs"), taxable entities that require tax administration. Interpleader funds will be deposited in the CRIS Disputed Ownership Fund for each interpleader, titled in the name of the case giving rise to the deposit invested in the fund. Unless otherwise ordered by the Court, interpleader funds shall be deposited in the DOF established within the CRIS and administered by the Administrative Office of the United States Courts, which shall be responsible for meeting all DOF tax administration requirements. (See Form of Order at Appendix D.2). Income generated from fund investments will be distributed to each case after the DOF fee has been applied and tax withholdings have been deducted from the Fund. Reports showing the interest earned and the principal amounts contributed in each case will be available through the FedInvest/CMS application for each court participating in the CRIS and made available to litigants and/or their counsel upon request.

(E) Only new deposits pursuant to 28 U.S.C. § 1335, effective April 1, 2017, will be placed in the CRIS Disputed Ownership Fund.

(3) Deduction of Fees

(A) The Custodian is authorized to deduct the ~~registry~~ CRIS fee for ~~maintaining accounts in C.R.I.S. and the investment services fee for the management of investments.~~ The proper ~~registry fee is to be determined on the basis of the rates published by the Director of the Administrative Office of the United States Courts as approved by the Judicial Conference.~~ of

an annualized 10 basis points on assets on deposit in the CRIS Liquidity fund for the management of investments. The CRIS fee is assessed from the interest earnings of the pool of cases in the CRIS Liquidity Fund before a pro rata distribution of earnings is made to a court case.

(B) The Custodian is authorized to deduct the DOF fee of an annualized 20 basis points on assets on deposit in the CRIS DOF for management of investments and tax administration. The DOF fee is assessed from interest earnings to the pool of cases in the CRIS DOF before a pro rata distribution of earnings is made to a court case. The Custodian is further authorized to withhold and pay federal taxes due on behalf of the DOF cases.

~~(B) If registry fees were assessed against the case under the old 45-day requirement prior to deposit in C.R.I.S., no additional registry fee will be assessed.~~

(C) If a Judge orders the appointment of a tax administrator to oversee potential expenses that maybe incurred on behalf of a case with funds in the DOF, the amount of the Disputed Ownership Fund in the case must be transferred to the CRIS Liquidity Fund, or as otherwise directed by court order.

(b) Orders Relating to the Disbursement of Court Funds

(1) Before any proposed order for disbursement of monies from the Registry of the Court is submitted to or considered by a Judge, the order first shall be approved as to form and content by the Clerk of Court or his/her designee.

~~(2) The Clerk of Court will not calculate interest on court registry funds invested in interest bearing accounts whenever accrued interest is to be apportioned between parties or partial payments are to be made from the investment. Counsel of record for a prevailing party(ies) shall consult with the Clerk of Court to ascertain the amount of interest accrued to date before applying (preferably by consent) to the Court for an order to disburse funds, including interest, from the Court's Registry. If applicable, the proposed order shall indicate the percentage of accrued interest to be disbursed to each party, subject to the deduction of the Court's administrative fee as set forth in (a)(3) herein.~~

~~(3) The Custodian shall deduct a miscellaneous schedule fee for the handling of those registry funds invested in interest bearing accounts, as authorized by the Judicial Conference of the United States and by Standing Orders of this Court dated June 30, 1989, November 30, 1990, and May 19, 2011, of 10% of the income earned on an account and any subsequent deposit of new principal while invested in C.R.I.S.~~

(3) A signed and completed W-9 Form for each recipient of accrued interest must be forwarded to the Court's Finance Manager before the funds will be released. The Social Security Number or Tax Identification Number of each recipient of accrued interest and their tax mailing address must be provided for the purpose of issuing 1099-INT annually.

The completed W-9 forms should be provided to the Court's Finance Manager separately and not as an attachment to the motion to disburse funds.

(4) All disbursement orders shall provide for the signature of the Clerk of Court or his/her designee in addition to that of the Judge, and shall state the following: "I recommend approval of the above order and declare that no lien or other claim against monies deposited in the Registry of the Court in this matter is on file in my office as of this date."

(Date)

(Clerk/Deputy Clerk)

(5) Failure of a party to personally serve the proposed order provided in L.Civ.R. 67.1(b)(1) upon the Clerk of Court, Chief Deputy of Administration, Chief Deputy of Operations or Finance Manager shall relieve the Clerk of Court or his/her designee from all liability for any lien on or other claim against the monies on deposit.

Amended June 19, 2013

Source: L.Civ.R. 67.1(a) - G.R. 35.E.; L.Civ.R. 67.1(b) - G.R. 35.F.

Comments must be received by the Clerk of the Court by May 12, 2017 and should be addressed to:

William T. Walsh, Clerk of Court
United States District Court
Martin Luther King Jr. Federal Bldg. & U.S. Courthouse
50 Walnut St.
Newark, NJ 07101

or by e-mail to: localrules@njd.uscourts.gov

Date: April 7, 2017

For the Court

Jerome B. Simandle
Chief Judge