



UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF MISSOURI
THOMAS F. EAGLETON U.S. COURTHOUSE
111 SOUTH TENTH STREET, FOURTH FLOOR
ST. LOUIS, MISSOURI 63102

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RULE 67 PROCEDURE

In 1983, Rule 67, F.R.C.P. was amended and now requires that most money in the Court's Registry be held in an interest bearing account. But it is the responsibility of the party making the deposit with the Court to personally serve the Clerk or Administrative Manager with a Court Order calling for the investment of said funds. Exceptions to this investment requirement include: cost bonds, removal bonds, and criminal bonds.

The Order to Invest may be generally worded using such language as "funds to be held at interest" which then allows the Clerk to make the investment in 90-day Certificates of Deposit, Money Market accounts or Treasury Bills. The investment vehicle is selected based on the dollar amount and the need for liquidity. The role of the Court is NOT to serve as an investment broker seeking the maximum rate of return, but rather to protect and preserve the principle invested.

The Order to Invest can, on the other hand, be worded very specifically giving the Clerk itemized instructions for the investment of the funds. Such an Order must include the following information:

- 1) The amount to be invested
- 2) The type of investment
- 3) A statement about holding the funds at interest
- 4) The name of the institution to be used.

As explanation, the amount to be invested should be stated clearly as a dollar figure in the body of the Order. Amounts over \$100,000.00 are fully collateralized for protection of the funds. Contact the Financial section before presenting amounts over \$100,000.00 for further instructions on the process to be used for investment of the funds.

The possible wording of a specific Order to Invest might therefore be: "ORDERED that the \$106,112.78 deposited in the Registry of the Court in this action be placed in a Money Market account at the prevailing rate of interest with said Money Market account being acquired from Mercantile Bank, N.A. of St. Louis."

The Judicial Conference of the United States has authorized an amendment to the miscellaneous fee schedule for the appellate, district, and bankruptcy courts which authorizes the Clerk to assess a fee for the handling of invested Registry funds.

This Registry Fee requires that Orders for disbursement of invested funds include some general language instructing the Clerk to collect the fee, such as: "the Clerk is directed to deduct from the income earned in this case a fee, not exceeding that authorized by the Judicial Conference of the United States."

NOTE: This information is mailed to any party depositing money into the Registry of the Court.

Dated: August 21, 2003