

FILED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SEP 21 1989

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BY AS

RE: AMENDMENT TO LOCAL RULE)
150, DEPOSITS OF REGISTRY)
FUNDS.)

GENERAL ORDER NO. 251

The amendment to Local Rule 150, Deposits of Registry Funds, detailed in Attachment 1 hereto, is hereby adopted by this Court.

This amendment is adopted pursuant to the provisions of Title 28 U.S.C. §2071(e) as an "emergency measure" and shall be effective nunc pro tunc to June 12, 1989. (See Attachment 2)

SO ORDERED.

DATED: 9/21/89

FOR THE COURT:


LAWRENCE K. KARLTON, CHIEF
U. S. DISTRICT COURT JUDGE

(e) **Order for Deposit - Interest Bearing Account.** Whenever a party seeks a court order for money to be deposited by the clerk in an interest-bearing account, the party shall personally deliver the order to the clerk or financial deputy who will inspect the proposed order for proper form and content and compliance with this rule prior to signature by the judge for whom the order is prepared. Such orders shall contain the following provision. Approved as to Form _____, Clerk, U.S. District Court.

(f) **Orders Directing Investment of Funds by Clerk.** Any order obtained by a party or parties in an action that directs the clerk to invest in an interest-bearing account or instrument funds deposited in the registry of the court pursuant to 28 U.S.C. 2041 shall include the following:

- 1) the amount to be invested;
- 2) the name of the depository approved by the Treasurer of the United States as a depository in which funds may be deposited;
- 3) a designation of the type of account or instrument in which the funds shall be invested;
- 4) wording which directs the clerk to deduct from the income earned on the investment a fee, not exceeding that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office at equal to the first 45 days income earned on the investment, whenever such income becomes available for deduction in the investment so held and without further order of the court.

Upon approval by the Court of an order for the deposit of funds into an interest-bearing account, it shall be the responsibility of counsel presenting the order to serve a copy on the clerk appointed pursuant to 28 U.S.C. §751 or the Chief Deputy Clerk personally. Absent such personal service, the clerk is relieved of any personal liability relating to compliance with the order.

ATTACHMENT 1

Notices

Federal Register

Vol. 54, No. 90

Thursday, May 11, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

UNITED STATES COURTS ADMINISTRATIVE OFFICE

Fees and Costs

AGENCY: Administrative Office of the United States Courts.

ACTION: Amendment to the Fee schedules for the United States Courts of Appeals, District, and Bankruptcy Courts published in the United States Code at 28 U.S.C. 1913, 1914, and 1930 respectively.

SUMMARY: This notice is to inform all interested parties that each clerk of court, whose fee schedules are set by the Judicial Conference of the United States under the authority of 28 U.S.C. 1913, 1914, and 1930, will assess a fee for the handling of all funds deposited in noncriminal proceedings with the court and held in interest bearing accounts or instruments pursuant to 28 U.S.C. 2041 and Rule 67 of the Federal Rules of Civil Procedure. The fee will be equal to the first 45 days income earned on each deposit into the court's registry.

EFFECTIVE DATE: June 12, 1989.

ADDRESS: Direct any inquiries to: Assistant Accounting Officer, Accounting Branch, Financial Management Division, Administrative Office of the United States Courts, 1120 Vermont Avenue NW., Washington, DC 20544.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 28 U.S.C. 2041, all moneys paid into any court of the United States, or received by the officers thereof, in any case pending or adjudicated in such court is deposited into the U.S. Treasury or other designated financial institutions in the name and to the credit of the court. These monies are commonly referred to as "registry funds". Under Rule 67 of the Federal Rules of Civil Procedure funds may be placed into interest bearing accounts or instruments

during the pendency of a case or proceeding.

The Judicial Conference of the United States, at its meeting in September 1988, authorized an amendment to the miscellaneous fee schedules for the appellate, district, and bankruptcy courts. The amendment authorizes clerks to assess a fee of up to three percent, not exceeding the interest earned, for the handling of registry funds, in accordance with a detailed schedule issued by the Director of the Administrative Office of the U.S. Courts. The Director has been given the discretion to exempt certain items from fees and to impose a fee at any lower level should he deem it appropriate.

The Judiciary Appropriation Act for Fiscal Year 1989 (Pub.L. 100-459) established a special fund in the U.S. Treasury for the fees imposed for handling registry funds, which will be available for use by the Judiciary.

The Director of the Administrative Office commissioned a study of financial institutions and state court systems to determine how similar funds held in custodial or trust accounts by those organizations are handled and the amount and manner in which fees (if any) are assessed. These studies in addition to a similar study of court fees in general conducted by the Conference of State Court Administrators in 1986, and a study of Judiciary fee bills enacted since 1853 serve as support for the establishment of this fee and the methodology employed in its application.

Application

The fee will be assessed on all registry fund investments in non-criminal proceedings as follows:

For new accounts, *i.e.* those investments made on or after the effective date of the fee, the fee will be equal to the first 45 days of income earned on the account. Each subsequent deposit of new principal into the registry, in the same case or proceeding in which other deposits have been made, will be subject to the fee. However, reinvestment of previously deposited principal will not be subject to the fee.

For existing accounts, *i.e.* those investments held by the court on the day prior to the effective date of the fee, a fee will be assessed equal to the first 45 days of income earned on such existing

accounts, beginning 30 days after the effective date of the fee. As discussed above, subsequent deposits of new principal in the same account will be subject to the fee. Subsequent reinvestment of existing deposits will not be subject to the fee.

The fee will apply only once to each sum deposited regardless of the length of the time actually held in the registry and will not exceed the income actually earned on the account.

The fee does not apply in the District Courts of Guam, Northern Mariana Islands, the Virgin Islands, the United States Claims Court or other courts whose fees are not set under the statutes cited above.

The fee will be deducted at the time the income is credited to the account.

As with other miscellaneous fees authorized under 28 U.S.C. 1913, 1914, and 1930, this fee may be taxed as costs by the court pursuant to 28 U.S.C. 1920. In cases where the U.S. Government is a party to the action underlying the registry investment, the funds initially withheld in payment of the registry fee may be restored to the United States upon application filed with the court by the United States Attorney or other Government counsel.

The 45 day period scheduled herein is subject to review and adjustment from time to time by the Director of the Administrative Office.

L. Ralph Mecham,

Director.

[FR Doc. 89-11327 Filed 5-10-89; 2:45 am]

REG. INFO CODE 1219-01-M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

May 5, 1989.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extension, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

NOTICE

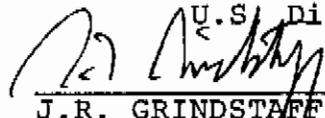
In accordance with the provisions of General Order No. 191 (Guidelines for Implementing Local Rules of Court), the Judges of the Eastern District of California propose to amend Local Rule 150, Deposits of Registry Funds as detailed in the attachment hereto.

All interested parties shall have 30 days from the date of this notice to submit comments regarding the proposed amendments. Comments shall be directed to: Clerk, U.S. District Court, 650 Capitol Mall, Sacramento, California 95814.

All comments received will be considered by the court. The court shall have no responsibility to respond to specific comments.

DATED: October 2, 1989

ATTEST: LAWRENCE K. KARLTON
Chief Judge,
U.S. District Court



J.R. GRINDSTAFF, CLERK
U.S. District Court
650 Capitol Mall
Sacramento, CA 95814