

## **RULE 4:57. Deposits In Court; Deposits In Lieu Of Bond; Withdrawals**

### **4:57-1. Deposit in Court**

In an action in which any part of the relief sought is a judgment for a sum of money or the disposition of a sum of money, a party, on notice to every other party, and by leave of court, may deposit with the Superior Court Trust Fund all or any part of the sum. The Clerk of the Superior Court, however, may accept money submitted under the Construction Lien Law, N.J.S.A. 2A:44A-31, whether or not there is litigation pending with respect thereto.

*Note: Source - R.R. 4:72-1; amended July 27, 2006 to be effective September 1, 2006.*

### **4:57-2. Procedure for Deposit and Withdrawal of Moneys**

- **(a) Superior Court.** Deposits with the Superior Court shall be made by check to the order of "Superior Court of New Jersey," and sent to the Clerk, who shall forthwith deposit it in an interest-bearing account in a depository designated by the Chief Justice, to the credit of the "Superior Court of New Jersey;" unless otherwise ordered by the Court as to a specified deposit or deposits, all estate and other funds so deposited with the Court shall be intermingled. No moneys on deposit under this rule shall be drawn, except by a draft or check of the Clerk, countersigned by a judge of the court or person designated by the Chief Justice.

All proposed orders to pay out along with any accompanying motion shall be submitted to the Superior Court Trust Fund Unit for review and verification of the amount on deposit prior to submission to the court.

Orders to pay out shall be reviewed by the Clerk, or other person designated by the Chief Justice, prior to payment. No draft or check shall be drawn until the reviewing party has established that:

- **(1)** the order is consistent with the account records as to the amount involved;
- **(2)** all interested parties have received notice of, or have consented to, the application to have the money paid out; and
- **(3)** the order correctly identifies affected parties and those to whom payments are to be made.

Payment pursuant to the order shall be withheld pending the curing of any deficiencies.

Orders to pay out may be made under such terms and conditions as the trial court may, in its discretion, deem appropriate, subject to the above. Such orders may be stayed pending appeal upon application pursuant to R. 2:9-5 or, where necessary, R. 2:9-8.

- **(b) Accounts in the Surrogate's Court.** Moneys paid into the Surrogate's Court shall be deposited in an interest-bearing trust account or accounts in responsible, federally insured banks, savings banks, trust companies or savings and loan associations, provided that no money shall be deposited in such account or accounts in excess of the maximum amount to which such deposits are insured. These funds shall be intermingled pursuant to guidelines promulgated by the Administrative Office of the Courts with the approval of the Chief Justice. The Surrogate shall maintain a record of the amounts deposited in each matter and may keep in a checking account a working reserve in an amount not exceeding that fixed by the Assignment Judge. Payment out of money deposited with the Surrogate's Court shall be made only on order of a Superior Court judge, except that the

Surrogate is authorized to issue an order permitting the withdrawal of funds of minors upon their reaching the age of majority.

- **(c) Construction Lien Law Deposits.** If the Clerk of the Superior Court accepted a deposit of Construction Lien Law funds when no litigation was pending, as permitted by R. 4:57-1, the Clerk is authorized, without court order, to withdraw or disburse such funds pursuant to the conditions set forth in N.J.S.A. 2A:44A-31.

Note: Source - R.R. 4:72-3, 4:72-5 (first sentence), 5:5-5(a) (b) (c) (e); paragraph (a) amended July 17, 1975 to be effective September 8, 1975; paragraph (b) amended December 26, 1979 to be effective January 1, 1980; paragraphs (a) and (b) amended July 16, 1981 to be effective September 14, 1981; paragraph (b) amended June 28, 1996 to be effective September 1, 1996; new paragraph (c) adopted July 27, 2006 to be effective September 1, 2006; paragraph (a) amended July 22, 2014 to be effective September 1, 2014.

#### **4:57-3. Accounts; Audit**

- **(a) Superior Court.** Regular books of account shall be kept by such persons and in such manner as the Chief Justice directs, and the Superior Court Trust Fund Unit shall furnish statements and transcripts from said books, showing the condition of an estate or fund to any person interested therein. An annual audit of funds deposited and the investments thereof shall be made as of June 30th of each year by certified public accountants designated by the Chief Justice, who shall make a detailed report thereof to the Chief Justice and the Administrative Director of the Courts. The Superior Court Trust Fund Unit shall make a report to the Chief Justice as to the funds deposited and the investments thereof as of June 30th of each year. The reports shall be filed as public records.
- **(b) Accounts in the Counties.** An annual audit of all estate and other funds deposited pursuant to R. 4:57-2(b) shall be made as directed by the Assignment Judge of the vicinage by certified public accountants or Registered Municipal Accountants or licensed Public Accountants designated by the Assignment Judge, who shall make a detailed report of such audit to the Assignment Judge and to the Deputy Clerk of the appropriate division of the Superior Court.

Note: Source-R.R. 4:72-4, 5:5-2 (second, third and fourth sentences) 5:5-5(d). Paragraph (b) amended December 26, 1979 to be effective January 1, 1980; paragraph (a) amended July 26, 1984 to be effective September 10, 1984; paragraphs (a) and (b) amended July 13, 1994 to be effective September 1, 1994; caption and paragraph (a) amended January 5, 2010 to be effective retroactive to January 1, 2010.

#### **4:57-4. Income and Interest on Deposits**

- **(a) Superior Court.** Income on deposited funds shall be ascertained as of June 30th and December 31st of each year. In calculating income there shall be deducted from the gross revenue the expenses incident to the audit and management of the funds and such further amount as the Chief Justice shall find proper to be set up as a reserve to meet losses, in order safely to protect the principal of the funds. The rate of interest to be paid on deposits shall be fixed by the Chief Justice and shall be credited monthly and at the time of withdrawal. Interest shall be credited in the manner prescribed by the Chief Justice with the advice of the Investment Advisory Committee.
- **(b) Accounts in the Counties.** Interest on deposits shall be paid out of interest earned in such manner and at such rate as the Assignment Judge shall determine.

Note: Source-R.R. 4:72-5. Paragraph (b) caption amended December 26, 1979 to be effective January 1, 1980; paragraph (a) amended July 26, 1984 to be effective September 10, 1984.

#### **4:57-5. Notice of Withdrawals; Order**

If application is made for the withdrawal of moneys deposited in court where the court has not adjudicated the amount due the applicant, the proceeding shall be by affidavit entitled in the

action. Notice of the application shall be given to all parties in interest, including the person who paid the funds into the court and, except deposits for costs, deposits in interpleader actions, or deposits in a matter to abide the final or other judgment therein, and except as otherwise provided by R. 4:64-3 (surplus moneys in foreclosure actions), to the Director of the Division of Taxation, Department of the Treasury. Withdrawal shall be made only by order of the court in accordance with R. 4:57-2.

**Note: Source-R.R. 4:72-6; amended January 16, 1975 to be effective April 1, 1975; amended July 16, 1981 to be effective September 14, 1981.**