
PRACTITIONER'S GUIDE

Superior Court Trust Fund
Superior Court Clerk's Office
www.njcourts.com

OVERVIEW

The Superior Court Trust Fund is a temporary depository for funds claimed in connection with litigation in the New Jersey Superior Court or of funds to be deposited under the jurisdiction of the New Jersey Supreme Court.

This guide is provided to assist individuals or attorneys seeking to deposit into and withdraw funds from court. Attorneys and self-represented litigants who have interaction with the Trust Fund should be familiar with and comply with all applicable rules, statutes and regulations.

The general rules applying to the deposit of funds into Court and withdrawal of funds from Court are found in R. 4:57. If the funds being withdrawn are surplus funds from a foreclosure action, R. 4:64-3 also applies, as does R. 4:64-9 if the motion is being filed with the Office of Foreclosure. In condemnation actions, consult R. 4:73-9 as well as R. 4:57.

Trust Fund Unit Mailing Address:

All correspondence should be directed to the

Superior Court Clerk's Office
Attn: Trust Fund Unit
Richard J. Hughes Justice Complex
25 Market Street
Sixth Floor, North Wing
P.O. Box 971
Trenton, NJ 08625 - 0971

Questions regarding the processing of Trust Fund work may be directed to the Trust Fund Unit at SCCOTrustfund.Mailbox@njcourts.gov or (609) 815-2900.

DEPOSIT OF FUNDS

The general rules applying to the deposit of funds into Court are found in R. 4:57 and R. 4:57-2. A court order is required to deposit funds into Court unless the funds deposited are unclaimed funds from an attorney trust account or are funds deposited into court in lieu of a construction lien claim.

GENERAL REQUIREMENTS FOR DEPOSITS

Required Documents: In order to deposit money into court, the following documents must be submitted to the Trust Fund Unit's mailing address noted above:

1. Two copies of a signed Court Order authorizing the deposit of funds.
2. A check made payable to the order of "Superior Court of New Jersey" in the exact amount specified in the order (the check does not have to be certified).
3. A self-addressed stamped envelope for mailing the receipt.

DEPOSITS OF UNCLAIMED FUNDS IN ATTORNEY TRUST ACCOUNTS

Rule 1:21-6(j) authorizes an attorney to deposit certain funds which are in his or her trust account that may not otherwise be disbursed to a client or on behalf of a client. The rule establishes a three-step process that must be completed prior to submitting the funds for deposit:

1. **Step One:** The attorney must identify those funds which have been unclaimed or in which ownership is unidentified or which are held for a missing owner. The funds must have been in the attorney trust account for more than two years, after which they may be designated by the attorney as suitable for deposit with the Court.
2. **Step Two:** The attorney must maintain the designated funds for a period of one (1) year during which time he/she must conduct a reasonable search for the beneficial owner(s) of the funds. If the ownership of the funds is in question, a diligent effort must be made to determine ownership. If the owner(s) of the funds is known, a diligent search of their whereabouts must be conducted.
3. **Step Three:** If the funds remain unidentifiable, are unclaimed, or the owner(s) cannot be located, they may be deposited into the Superior Court Trust Fund. The attorney must complete a detailed affidavit setting forth the amount and nature of the funds, the name(s) of the owner(s) and the attorney's efforts to identify or to disburse the funds to them. The affidavit must include all known addresses and any other information regarding the transaction which gave rise to the trust account deposit that may be helpful to identify ownership of the funds in the event that a claimant subsequently makes application for them

Required Documents: In order to deposit unclaimed funds into Court, the following documents must be submitted to the Trust Fund Unit’s mailing address noted above:

1. An original and one copy of the notarized affidavit or certification required by R. 1:21-6(j).
2. A check made payable to the order of “Superior Court of New Jersey” in the exact amount specified in the order (the check does not have to be certified and no starter checks).
3. A self-addressed stamped envelope for mailing the receipt.

CONSTRUCTION LIEN DEPOSITS

Funds deposited into court in lieu of a bond for a construction lien claim are paid into the Superior Court Trust Fund pursuant to R. 4:57-1.

Required Documents: In order to deposit construction lien funds into Court, the following documents must be submitted to the Trust Fund Unit’s mailing address noted above:

1. Two copies of the recorded lien claim.
2. A certified or bank check made payable to “Superior Court of New Jersey” in the amount of 110% of the construction lien claim.
3. A separate check, which need not be certified, in the amount of \$25.00 made payable to “Treasurer, State of New Jersey.”
4. Two self-addressed stamped envelopes for transmittal of (a) a recordable “notice of receipt of cash in lieu of bond for a construction lien claim” for filing with the county recording officer and (b) a non-recordable Trust Fund receipt.

SURETY BONDS

The general rules applying to surety bonds are found in R. 1:13-3. Any Surety Bond, including Supersedeas Bonds, must be submitted to a Judge for approval and should stay with the court’s case file in the trial court. **Surety Bonds are not sent to the Trust Fund Unit.**

Cash in lieu of a Surety Bond: Cash (in the form of a check) deposited in lieu of a Surety Bond is sent to the Trust Fund Unit. However, with the exception of cash posted in lieu of a Surety Bond for a Construction Lien Claim, there must be a court order specifically directing that cash may be posted in lieu of a bond. An Order directing a bond to be posted is insufficient as it does not specifically allow cash in lieu thereof.

WITHDRAWAL OF FUNDS

The general rules applying to the withdrawal of funds from Court are found in R. 4:57-2 and R. 4:57-5. A Court Order is required in order to obtain a release of funds. This is done by making a motion or submitting a consent order to withdraw funds. **You must submit a proposed motion package or consent order to the Trust Fund Unit for verification of the amount on deposit and compliance with the court rules BEFORE filing it with the court.**¹

GENERAL REQUIREMENTS FOR WITHDRAWALS

STEP 1: Send Motion Package with Proposed Order to the Trust Fund Unit for Review

Mail the entire motion package to the Superior Court Trust Fund Unit for verification of the amount on deposit. The Trust Fund Unit will verify the funds on deposit and review the proposed order for compliance with court rules. Once verified, the motion package, verified order, and the transmittal letter will be returned to you for filing with the court.

Order Requirements: In order to qualify for payment, the payout order must clearly include the following:

- 1. It must direct payment of funds from the Superior Court Trust Fund.** The language used in payout orders varies, but it must be clear that the intent is to pay funds from the money on deposit with court in the Superior Court Trust Fund. Some examples of the many variations are: “The Clerk of Superior Court shall pay _____”; “The Superior Court Trust Fund shall pay _____”; “_____ shall be paid from the funds on deposit with Court”.
- 2. It must specify the amount of the funds to be paid:** Most commonly this will be recited as a specific amount (e.g., pay \$50,000) but can also be couched in generic terms as long as the reference is clear, such as, “Pay all funds on deposit”; “Pay the balance of funds after payment of \$10,000 to _____”.
- 3. It must identify the party(ies) to whom the funds are to be paid:** The proposed order must clearly specify to whom the funds should be released, as well as specifying the address to which the payment is to be sent.

Required Documents: The following documents must be submitted to the Trust Fund Unit’s mailing address noted above.

- 1. Motion Package:** The motion must include the following: (1) *Notice of Motion*, (2) *Certification of Service*, (3) *Certification in Support of the Motion*, and (4) *Proposed Order*.
- 2. Child Support Judgment Certification** (if applicable -- see “Additional Required Documents” below)

¹ The Supreme Court’s July 25, 2014 amendments to the Rules of Court, which became effective September 1, 2014, requires proposed orders to pay out and their accompanying motion papers to be submitted to the Superior Court Trust Fund Unit for review and verification of the amount on deposit prior to the submission to the Judge in the appropriate vicinage. R. 4:57(2)(a).

3. **IRS W-9** (if applicable -- see “Additional Required Documents” below)
4. **Return envelope:** The motion package or proposed consent order should be accompanied by a self-addressed stamped envelope sufficient for its return once verified.

Additional Required Documents: In addition to the motion package you may need to provide a Child Support Judgment Certification showing that the recipient of funds is not a child support judgment debtor and/or an IRS W-9 if the below requirements are applicable.

1. **Child Support Judgment Certification:** Provide a certification from a private judgment search company if an individual who is not a minor is receiving more than \$2,000.00 either directly or through an attorney. See *N.J.S.A. 2A:17-56.23b*. If the recipient has been known by any other name(s), a child support judgment search must be done for each name.
 - **Certification of Arrears:** If the recipient of the funds is in fact a child support judgment debtor, provide a certification from the appropriate probation officer showing current child support arrears and the amount of post-judgment interest due so that the Clerk may pay the full arrears (to the extent available on deposit in the Trust Fund).
 - **Warrant of Satisfaction:** If all child support arrears have been paid and there are no current obligations, a copy of a filed warrant of satisfaction must be submitted to the Trust Fund Unit. The appropriate probation division should be contacted for help in obtaining a warrant of satisfaction.
2. **IRS W-9:** Provide a completed IRS form W-9 if accrued interest is being paid to anyone other than a corporation or a government entity in excess of \$10.00, either directly or through an attorney. If the interest is being paid to more than one person, the percentage of interest each person is to receive should be indicated. If the recipient of the funds is not a U.S. citizen or is a resident alien, the appropriate W-8 form may be required.
 - **Note:** The Trust Fund has not earned interest as of June 2009, therefore funds deposited after this date will not have accumulated interest to be paid and it is therefore unnecessary to include an IRS W-9 for these cases.

STEP 2: File Motion, Verified Order, and the Transmittal Letter with the Court

Once you receive the motion package, verified order, and the transmittal letter back from the Trust Fund Unit, you must file it at the county courthouse where the case started. When filing the motion in the county courthouse, include the original motion and one copy along with the \$50.00 filing fee. The filing fee must be in the form of a check or money order made payable to “Treasurer, State of New Jersey.” In addition to filing the motion with the county courthouse, you must serve the motion on ALL parties to the original case.

STEP 3: Submit Executed Order to the Trust Fund Unit

Once the verified order is SIGNED by the judge, you must submit a certified copy of the order bearing the court seal to the Trust Fund Unit to process the signed payout order. A certified copy is a plain copy with a stamp affixed with the Superior Court Clerk/Deputy Clerk's signature attesting to the authenticity of the document. A seal may be affixed to a certified copy. (See <https://www.judiciary.state.nj.us/courts/superior/copiesrecords.html>).

If a Child Support Judgment Certification, Certification of Arrears, Warrant of Satisfaction, or W-9 is required and was not previously submitted, payment will be delayed until these are received.

SURPLUS MONEY MOTIONS

To obtain release of surplus money after a foreclosure sale you will need to obtain a Court Order. This is done by filing a motion to withdraw surplus money. The general rules applying to the withdrawal of surplus money from Court are found in R. 4:64-3 and R. 4:64-9. Motions made by original parties to the foreclosure action are to be filed with the Office of Foreclosure. All non-parties must make their application to the Chancery Judge in the County where the foreclosed property is located. For detailed instructions on how to file a surplus money motion, please refer to http://www.njcourts.gov/forms/11529_surplus_money_app_info.pdf and http://www.njcourts.gov/forms/11901_notice_foreclosure_office_foreclosure.pdf.

WITHDRAWAL OF CONSTRUCTION LIEN DEPOSITS

Pursuant to R. 4:57-1 and N.J.S.A. 24:44A-31(c), construction lien deposits may be returned without a court order. The request may be made by the owner, community association, contractor or subcontractor (or the attorney for any of these) by submitting any of the following:

1. A duly acknowledged certificate
2. An order of discharge
3. A judgment of dismissal or other final judgment against the lien claimant
4. A true copy of a stipulation of dismissal, with prejudice, executed by the lien claimant or its representative in any action to foreclose the lien claim

PROCESSING TIME AND SPECIAL DELIVERY ARRANGEMENTS

It usually takes about 4 weeks from the time the order is received by the Trust Fund Unit until the check is sent but it may take longer depending on the volume of work. Checks are sent out by regular mail unless arrangements are made to have the check picked up or sent overnight. Special delivery arrangements must be made in writing. If you wish to pick the check up in person, specify your name and phone number – you will be notified by phone the day before the check is ready for pickup. Checks can be sent overnight by Federal Express or UPS if a completed air bill is supplied.