

subject to the general equity jurisdiction of the court in which the receiver was appointed, so far as justice necessitates.

Capacity of a state court receiver to sue or be sued in federal court is governed by Rule 17(b).

The last sentence added to Rule 66 assures the application of the rules in all matters except actual administration of the receivership estate itself. Since this implicitly carries with it the applicability of those rules relating to appellate procedure, the express reference thereto contained in Rule 66 has been stricken as superfluous. Under Rule 81(a)(1) the rules do not apply to bankruptcy proceedings except as they may be made applicable by order of the Supreme Court. Rule 66 is applicable to what is commonly known as a federal “chancery” or “equity” receiver, or similar type of court officer. It is not designed to regulate or affect receivers in bankruptcy, which are governed by the Bankruptcy Act and the General Orders. Since the Federal Rules are applicable in bankruptcy by virtue of General Orders in Bankruptcy 36 and 37 [following section 53 of Title 11, U.S.C.] only to the extent that they are not inconsistent with the Bankruptcy Act or the General Orders, Rule 66 is not applicable to bankruptcy receivers. See *1 Collier on Bankruptcy* (14th ed. by Moore and Oglebay) ¶¶ 2.23-2.36.

NOTES OF ADVISORY COMMITTEE ON RULES—1948  
AMENDMENT

Title 28, U.S.C., §§ 754 and 959(a), state the capacity of a federal receiver to sue or be sued in a federal court, and a repetitive statement of the statute in Rule 66 is confusing and undesirable. See also Note to Rule 17(b), *supra*.

COMMITTEE NOTES ON RULES—2007 AMENDMENT

The language of Rule 66 has been amended as part of the general restyling of the Civil Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

**Rule 67. Deposit into Court**

(a) DEPOSITING PROPERTY. If any part of the relief sought is a money judgment or the disposition of a sum of money or some other deliverable thing, a party—on notice to every other party and by leave of court—may deposit with the court all or part of the money or thing, whether or not that party claims any of it. The depositing party must deliver to the clerk a copy of the order permitting deposit.

(b) INVESTING AND WITHDRAWING FUNDS. Money paid into court under this rule must be deposited and withdrawn in accordance with 28 U.S.C. §§ 2041 and 2042 and any like statute. The money must be deposited in an interest-bearing account or invested in a court-approved, interest-bearing instrument.

(As amended Dec. 29, 1948, eff. Oct. 20, 1949; Apr. 28, 1983, eff. Aug. 1, 1983; Apr. 30, 2007, eff. Dec. 1, 2007.)

NOTES OF ADVISORY COMMITTEE ON RULES—1937

This rule provides for deposit in court generally, continuing similar special provisions contained in such statutes as U.S.C., Title 28, § 41(26) [now 1335, 1397, 2361] (Original jurisdiction of bills of interpleader, and of bills in the nature of interpleader). See generally *Howard v. United States*, 184 U.S. 676 (1902); United States Supreme Court Admiralty Rules (1920), Rules 37 (Bringing Funds into Court), 41 (Funds in Court Registry), and 42 (Claims Against Proceeds in Registry). With the first sentence, compare *English Rules Under the Judicature Act* (The Annual Practice, 1937) O. 22, r. 1(1).

NOTES OF ADVISORY COMMITTEE ON RULES—1948  
AMENDMENT

The first amendment substitutes the present statutory reference.

Since the Act of June 26, 1934, was amended by Act of December 21, 1944, 58 Stat. 845, correcting references are made.

NOTES OF ADVISORY COMMITTEE ON RULES—1983  
AMENDMENT

Rule 67 has been amended in three ways. The first change is the addition of the clause in the first sentence. Some courts have construed the present rule to permit deposit only when the party making it claims no interest in the fund or thing deposited. *E.g.*, *Blasin-Stern v. Beech-Nut Life Savers Corp.*, 429 F.Supp. 533 (D. Puerto Rico 1975); *Dinkins v. General Aniline & Film Corp.*, 214 F.Supp. 281 (S.D.N.Y. 1963). However, there are situations in which a litigant may wish to be relieved of responsibility for a sum or thing, but continue to claim an interest in all or part of it. In these cases the deposit-in-court procedure should be available; in addition to the advantages to the party making the deposit, the procedure gives other litigants assurance that any judgment will be collectable. The amendment is intended to accomplish that.

The second change is the addition of a requirement that the order of deposit be served on the clerk of the court in which the sum or thing is to be deposited. This is simply to assure that the clerk knows what is being deposited and what his responsibilities are with respect to the deposit. The latter point is particularly important since the rule as amended contemplates that deposits will be placed in interest-bearing accounts; the clerk must know what treatment has been ordered for the particular deposit.

The third change is to require that any money be deposited in an interest-bearing account or instrument approved by the court.

COMMITTEE NOTES ON RULES—2007 AMENDMENT

The language of Rule 67 has been amended as part of the general restyling of the Civil Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

**Rule 68. Offer of Judgment**

(a) MAKING AN OFFER; JUDGMENT ON AN ACCEPTED OFFER. At least 14 days before the date set for trial, a party defending against a claim may serve on an opposing party an offer to allow judgment on specified terms, with the costs then accrued. If, within 14 days after being served, the opposing party serves written notice accepting the offer, either party may then file the offer and notice of acceptance, plus proof of service. The clerk must then enter judgment.

(b) UNACCEPTED OFFER. An unaccepted offer is considered withdrawn, but it does not preclude a later offer. Evidence of an unaccepted offer is not admissible except in a proceeding to determine costs.

(c) OFFER AFTER LIABILITY IS DETERMINED. When one party's liability to another has been determined but the extent of liability remains to be determined by further proceedings, the party held liable may make an offer of judgment. It must be served within a reasonable time—but at least 14 days—before the date set for a hearing to determine the extent of liability.

(d) PAYING COSTS AFTER AN UNACCEPTED OFFER. If the judgment that the offeree finally obtains is not more favorable than the