

## Alabama Rules of Civil Procedure

### VIII. PROVISIONAL AND FINAL REMEDIES AND SPECIAL PROCEEDINGS

#### Rule 67.

##### 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 any other thing capable of delivery, a party, upon notice to every other party, and by leave of court, may deposit with the court all or any part of such sum or thing, whether or not that party claims all or any part of the sum or thing. The party making the deposit shall serve the order permitting deposit on the clerk of the court. Money paid into court under this rule shall be deposited in an interest-bearing account in a federally insured bank or savings and loan association authorized to receive public funds, to the credit of the court in the action or proceeding in which the money was paid. The fund so deposited plus any interest shall be paid only upon the check of the clerk of the court, annexed to its certified order for the payment, and in favor of the person to whom the order directs the payment to be made.

(dc) *District court rule.* Rule 67 applies in the district courts.

[Amended eff. 10-1-95.]

#### Committee Comments on 1973 Adoption

The first sentence of the rule, authorizing payment of money into court, or deposit of a thing capable of delivery, is identical with the first sentence of Federal Rule 67. It states a general principle which Alabama has recognized in a number of specific situations. Among the principal reasons for depositing money with the court will be where the depositor has no interest in the controversy and desires to be relieved from any personal liability, as in cases of strict interpleader, see Rule 22(b), and also where the stakeholder wishes to stop the further accrual of interest. *Murphy v. Merchants Nat. Bank*, 240 Ala. 688, 200 So. 894 (1941); *Mims v. Alabama Power Co.*, 262 Ala. 121, 77 So.2d 648 (1955). Alabama statutes which have allowed deposit in court in particular circumstances are not superseded by this rule, but should be regarded as cumulative to it. This Rule further provides for deposit at interest. This provision has been added so as to minimize the possibility of the deposit of substantial sums of money for relatively long periods of time without the accrual of interest.

#### Committee Comments to October 1, 1995,

## **Amendment to Rule 67**

The amendment incorporates recent amendments to F.R.Civ.P. 67, which allow deposit even when the litigant claims all or any part of the fund. It further requires service of an order calling for deposit on the clerk so as to assure notice to the clerk of responsibilities as to the fund.