

By Michael K. Jeanes, Clerk of the Superior Court

Funds Leftover From Cases Often Overlooked

In Maricopa County, the Clerk of the Superior Court's Office processes millions of dollars every year in restitution funds owed to victims, release bonds, performance bonds, trust funds, appellate bonds and numerous other funds required as part of the court process. Currently there are over 68 million dollars being held by the Clerk's Office. Most of these funds have to be held as probate estates, contract disputes and other cases work through the court system to determine their legal ownership. Nearly one million dollars of these funds, however, have been in the Clerk's Office for more than five years.

Smaller funds, such as \$50 bonds are easily overlooked when a case is dismissed by stipulation. The Order dismissing the matter fails to address the funds on deposit and the Clerk's Office lacks the authority to return funds or exonerate bonds on its own. Many of the funds that languish with the Clerk's Office were posted years earlier in complex cases or cases with multiple parties and can be forgotten by the time the case reaches its final conclusion. In some situations, funds are set aside for a minor in a probate action, but no immediate follow-up action occurs after the minor becomes an adult.

To maximize your case management and please your clients, make a note in all your cases to add "funds with the Clerk" as part of a final checklist when concluding matters in Superior Court. Remember also that lower court appeals to superior court and appellate court cases remanded back to superior court often involve bonds or other funds to address. There have been times when the appellate court's order remanding the case references bond money, but not with enough detail to allow the Clerk to distribute those funds. Subsequent, clarifying orders prepared by those involved in the case will expedite the release of funds.

Sometimes the Clerk's Office knows who is owed money and has the authority to release the funds, but the individual or business has moved or otherwise caused the funds to be undeliverable. In response, the Clerk's Office has a service available on its website called "Finding Funds" that helps the public and businesses recover court-ordered money that is owed to them. It is designed so users can simply enter their name or the name of their business to see if court-ordered restitution is owed to them. If a search reveals that money may be with the Clerk's Office, the customer can generate a request form for the Office to research and process the funds. At the end of fiscal year 2009, the Clerk's Office was holding over \$3 million of unclaimed money owed to crime victims. The unclaimed property search is on the Clerk's website at http://www.clerkofcourt.maricopa.gov/Unclaimed/default_new.asp.

A list of fund-types being held by the Clerk's Office follows, in the hope that these situations or case types will trigger a memory or motivate parties and attorneys to revisit

their cases and take action that can get these funds distributed: temporary restraining orders and preliminary injunction bonds, stock certificates, rents posted pending appeal (especially when the appeal was not perfected), bonds or fees posted in cases that were dismissed for lack of prosecution or service, supersedeas bonds, garnishment actions without a final order, excess proceeds from a sheriff's sale or eminent domain case, checks returned by the post office as undeliverable, arbitration appeal bonds, cost or performance bonds posted by personal representatives or conservators, appeal bonds, criminal and civil arrest warrant bonds or interpleader funds.

With busy caseloads and complex matters, it can be difficult to keep track of everything. Adding "funds with the Clerk" to every case's final (or ongoing) checklist will help manage cases and keep the court system focused on present and future needs, not having to track down what was done in the past.