

## **CHAPTER 32-11 DEPOSIT**

### **32-11-01. What subject to order of deposit.**

When it is admitted by the pleadings or the examination of a party that the party has in the party's possession or under the party's control any money or other thing capable of delivery, which, being the subject of the litigation, is held by that party as trustee for another party or which belongs or is due to another party, the court may order the same to be deposited in court, or delivered to such party with or without security, subject to the further direction of the court.

### **32-11-02. Voluntary deposit in court of property adversely claimed.**

Whenever two or more persons make claim for the whole or any part of the same money, personal property, or effects in the possession or control of any other person as bailee or otherwise, and the right of any such claimant is adverse to the right of any other claimant, or is disputed or doubtful, and the bailee, custodian, or person in control of any part of such property, money, or effects is unable to determine to whom the same rightfully belongs, or who is rightfully entitled to the possession thereof, or whenever such bailee, custodian, or person in control has notice or knowledge of any right or claim of right of any person in or to any part of such property, money, or effects adverse to the right of any other claimant therefor, or whenever any debt, money, property, or effects owing by or in the possession or under the control of any person may be attached by garnishment or other process, and there is any dispute as to who is entitled to the same or any part thereof, in any such case the person in the possession or control of any such property, money, or effects:

1. If an action in any form has been commenced for or on account of, or growing out of the same, or in which the same has been attached as aforesaid, may pay such money or deliver such property or effects to the clerk of the court in which any such action having reference to said money, property, or effects, or the value thereof, may be pending, or out of which any garnishment or other process may issue with reference thereto.
2. If no such suit is commenced, may apply to the district court of the district where such property, money, or effects may be situated, and upon showing to the satisfaction of the court the existence of facts bringing such person within the operation of this section, such court shall make an order designating a depository with whom such property, money, or effects may be deposited by the applicant for such order.

In either case such person in the possession or control of such property, money, or effects at once shall notify personally or by registered or certified mail all persons of whose claims such person may have notice or knowledge, having or claiming any interest, property, lien, or right in, to, or upon such property, money, or effects, of such deposit, and upon giving such notice the person so depositing the same thereupon shall be relieved from further liability to any person on account of such property, money, or effects, but such depositor may be required upon the application of any party interested therein to appear and make disclosure before the court in which any such action may be pending or by which any order designating a depository may be made concerning such property, money, debts, or effects held, controlled, or owed by the depositor. If the address of any persons having or making any claim as aforesaid cannot be ascertained, an affidavit to that effect shall be filed with the depository, and the giving of such notice shall not be required in such case.

### **32-11-03. Disobedience - Contempt.**

Whenever in the exercise of its authority a court shall have ordered the deposit, delivery, or conveyance of money or other property and the order is disobeyed, the court, besides punishing the disobedience as for contempt, may make an order requiring the sheriff to take the money or property and deposit, deliver, or convey it in conformity with the direction of the court.

**32-11-04. Defendant's admissions.**

When the answer of the defendant expressly or by not denying admits part of the plaintiff's claim to be just, the court, on motion, may order such defendant to satisfy that part of the claim, and may enforce the order as it enforces a judgment or a provisional remedy.