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July 27, 2021

OPINION NO. 2021-01

UNCLAIMED PROPERTY; JUSTICE COURTS; INTERPLEADER: Funds deposited with the court in an interpleader action are distributable when there ceases to be a justiciable controversy as to the ownership of those funds. From that point forward, if the funds are not claimed within one (1) year, they are presumed abandoned per NRS 120A.500(1)(j). Once the funds are presumed abandoned, they must be transferred to the Unclaimed Property Division.

Chief Judge Melissa A. Saragosa  
Justice Court, Las Vegas Township  
Regional Justice Center  
200 Lewis Avenue, Seventh Floor  
Box 552511  
Las Vegas, Nevada 89155

Dear Chief Judge Saragosa:

In your capacity as Chief Justice of the Justice Court, Las Vegas Township, you have requested an opinion from the Office of the Attorney General regarding the proper disposition of monies deposited with the court in interpleader cases, whether such monies would properly escheat to the State, and if so, through what mechanism.

As you note in your request, NRS 120A.500(1)(j) establishes a presumption that certain property, including funds held by a court in interpleader cases, have been abandoned if not disposed of within one (1) year after they become “distributable”. Once such property is presumed abandoned, it is “subject to the custody of this State” pursuant to NRS 120A.530. You have asked whether the property held by the court pursuant to interpleader actions would be presumed abandoned.

### QUESTION

When are monies that are deposited with the court in interpleader cases presumed abandoned, and what happens to the monies at that point?

### SUMMARY CONCLUSION

Property deposited with the court in an interpleader action is distributable when there ceases to be a justiciable controversy concerning the ownership of the property. An interpleader action involving a title company as plaintiff ceases to present a justiciable controversy when the rights of the title company have been fully and finally adjudicated and the time for any named claimant to file an answer to the complaint has elapsed. If the money is not claimed by the owner within one (1) year of that date, the property is presumed abandoned per NRS 120A.500(1)(j). Once the property is presumed abandoned, it must be transferred to the Unclaimed Property Division.

### ANALYSIS

Rule 22 of Nevada’s Justice Court Rules of Civil Procedure states that “[p]ersons having claims against the plaintiff may be joined as defendants and required to interplead when their claims are such that the plaintiff is or may be exposed to double or multiple liability.” During an interpleader case in which a title company is the plaintiff, the title company deposits with the court money that it had previously held in an escrow account as a fiduciary for the parties to a real estate transaction less any fees or charges it is owed.<sup>1</sup>

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<sup>1</sup> See NRS 654A.177(1)

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The title company then has no claim to any portion of the money deposited and requests that it be discharged from further responsibility and removed from the case. In this situation, the claimants are left to litigate their competing claims to the money. On occasion, though, none of the claimants proceed with the case, leaving the money deposited with the court indefinitely.

Nevada's Uniform Unclaimed Property Act discusses the process for abandoned property to be remitted to the State's custody. First, it must be determined whether the property has been abandoned. According to NRS 120A.500(1)(j), funds deposited with a court are "presumed abandoned if . . . unclaimed by the apparent owner [within] 1 year after the property becomes distributable[]".

To provide an accurate understanding of when property held by a court is presumed to be abandoned, it is necessary to determine when that property becomes distributable. Distributable is defined as "capable of being [given] or deliver[ed] especially to members of a group[.]"<sup>2</sup> The funds deposited with the court are capable of being given or delivered to the claimants once there ceases to be a justiciable controversy concerning the ownership of the property. This occurs when the rights of the title company have been fully and finally adjudicated and the time for any named claimant to file an answer to the complaint has elapsed. Once that occurs, the trust company is discharged from further responsibility for the money it deposited with the court<sup>3</sup> and is dismissed from the case. One year after that, the deposited funds are presumed abandoned.<sup>4</sup>

Second, once the property is presumed abandoned, it is "subject to the custody of this State"<sup>5</sup> and the property must be "paid or delivered to the

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<sup>2</sup> Distributable, Merriam-Webster.com (Apr. 19, 2021) <https://www.merriam-webster.com/dictionary/distributable> and Distribute, Merriam-Webster.com (Apr. 19, 2021) <https://www.merriam-webster.com/dictionary/distribute>

<sup>3</sup> See NRS 645A.177

<sup>4</sup> See NRS 120A.500(1)(j)

<sup>5</sup> See NRS 120A.530

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[Unclaimed Property Division] . . . ”<sup>6</sup> Pursuant to NRS 120A.590(2), the Unclaimed Property Division serves as the custodian of unclaimed property in perpetuity. This means that neither the State nor its agencies ever acquire title to abandoned property. Consequently, if the court were to set aside its judgment and adjudicate the question of ownership after having previously transferred the funds to the Unclaimed Property Division, the owner could recover them by filing a claim with the Unclaimed Property Division pursuant to NRS 120A.640.

### CONCLUSION

Property deposited with the court in an interpleader action is distributable when there ceases to be a justiciable controversy concerning the ownership of the property. An interpleader action involving a title company as plaintiff ceases to present a justiciable controversy when the rights of the title company have been fully and finally adjudicated and the time for any named claimant to file an answer to the complaint has elapsed. If the money is not claimed by the owner within one (1) year of that date, the property is presumed abandoned per NRS 120A.500(1)(j). Once the property is presumed abandoned, it must be transferred to the Unclaimed Property Division.

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By: 

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<sup>6</sup> See NRS 120A.570(1)