



So Ordered.

Dated: February 8, 2024


G. Michael Halfenger
Chief United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

In re:

Arrow Express, Inc.,

Debtor.

Case No. 95-24187-gmh
Chapter 7

**ORDER DENYING (1) UNCLAIMED FUNDS RECOVERY SERVICES VII INC.'S
MOTION TO RECONSIDER DENIAL OF REQUEST TO RELEASE UNCLAIMED
FUNDS AND (2) REQUEST TO RELEASE UNCLAIMED FUNDS**

The Bankruptcy Code requires the trustee in a case under chapter 7 to “stop payment on any check” issued to a creditor that “remain[s] unpaid” as of “[n]inety days after the final distribution [of property of the estate] under [11 U.S.C. §]726”. 11 U.S.C. §347(a). These “unclaimed funds” must then “be paid into the court and disposed of under chapter 129 of title 28” of the United States Code. *Id.* Chapter 129 requires that such funds “be forthwith deposited with the Treasurer of the United States or a designated depository”. 28 U.S.C. §2041. “No money [so] deposited” may “be withdrawn except by order of court.” *Id.* §2042. Such an order may be obtained by “[a]ny claimant entitled to any such money” but only “on petition to the court and upon notice to the United States attorney and full proof of the right thereto”. *Id.*

Unclaimed Funds Recovery Services VII Inc. (“UFRS”) has twice petitioned this court for an order directing payment to it of funds that went unclaimed in this case. UFRS filed its first such request in May 2023, seeking the release of \$594.31 that the trustee attempted to pay to Mark Frankwick, a creditor in the case, but that Frankwick did not timely claim. The court denied that request, and UFRS now moves for reconsideration of that order. UFRS requests the release of \$554.42 that the trustee attempted to pay to Theresa Glover, another creditor in the case, but that Glover also did not timely claim. ECF No. 306. UFRS filed with these requests what appear to be assignments by Frankwick and Glover (the original claimants) of their respective rights to the funds at issue to “Bankruptcy Settlement Group” and subsequent assignments of those rights by “Benjamin D. Tarver dba Bankruptcy Settlement Group” to UFRS. ECF No. 298, at 7 & 9; ECF No. 306, at 9 & 11.

Ordinarily, a corporation like UFRS may appear in and seek relief from a federal court only if it does so by counsel. See 28 U.S.C. §1654 (“In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein.”); *Philos Techs., Inc. v. Philos & D, Inc.*, 645 F.3d 851, 857–58 (7th Cir. 2011) (“[A] corporation . . . is legally incapable of appearing in court unless represented by counsel”); Local Rule 9029(e) (Bankr. E.D. Wis. Nov. 1, 2017) (“Only natural persons . . . may appear pro se. Legal entities, such as corporations, . . . must be represented by legal counsel.”). There is an exception to this general rule in bankruptcy cases, but it is a narrow exception that applies only with respect to administrative or ministerial acts that do “not constitut[e] the practice of law” (e.g., filing a proof of claim). Fed. R. Bankr. P. 9010(a).

UFRS has not appeared by counsel: all of its filings in this case were by Benjamin Tarver, who seems to be UFRS’s president, treasurer, secretary, and sole shareholder. See ECF No. 298, at 12–13. Nothing in the record suggests that Tarver is an attorney,

and even if he is, he is not admitted to practice in this district.

Perhaps there are circumstances under which a corporation may, without counsel, obtain a release of funds deposited in the United States Treasury. But not here: Section 2042 requires a *court order*. Court orders are the dominion of judges. Petitioning for one—the process that §2042 mandates when, as here, the Treasury has held the funds for more than five years—requires the petitioner to appear. And corporations cannot appear except through counsel. *Scandia Down Corp. v. Euroquilt, Inc.*, 772 F.2d 1423, 1427 (7th Cir. 1985) (“A ‘corporation’ is an abstraction, and abstractions cannot appear pro se.”); *Strong Delivery Ministry Ass’n v. Bd. of Appeals*, 543 F.2d 32, 34 (7th Cir. 1976) (“Although section 1654 protects the individual’s right to ‘plead and conduct (his or her) own cases personally,’ that right has never been enlarged to permit the individual to act in behalf of or as an agent for a party corporation.”).

What is more, a corporation moving for reconsideration of a court order, as UFRS is doing, certainly must do so by counsel. Moreover, UFRS’s asserted rights to the unclaimed funds at issue rest on multiple assignments of the original claimants’ rights to those funds, which makes the court’s task in determining whether UFRS’s asserted rights are valid more complicated than it would be in the simplest of instances. Even putting all that aside, having reviewed in detail the record and UFRS’s filings, the court cannot readily discern the nature of UFRS’s interests in the funds at issue and relationships with the original claimants, including whether UFRS is a successor claimant, as it asserts, or is instead a funds locator working on behalf of the original claimants and obligated to return to them, in whole or in part, any funds it may recover.

For these reasons, IT IS ORDERED that UFRS’s motion for reconsideration of the court’s denial of its first petition for the release of unclaimed funds (ECF No. 304) and UFRS’s second petition for the release of unclaimed funds (ECF No. 306) are denied, but this order is without prejudice to UFRS appearing by counsel to petition the court for the release of any or all of the unclaimed funds at issue.

The clerk is directed to mail a copy of this order directly to each of the following recipients at the addresses listed below:

Unclaimed Funds Recovery Services VII Inc.
2300 East Fry Blvd. #1630
Sierra Vista, AZ 85636

Mark Frankwick
648 Bluff NE St.
Hutchinson, MN 55350-1306

Theresa Glover
1101 John Evans Dr.
Gulfport, MS 39507-3658

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