

the Western District of Virginia over gas rights and that Court awarded a 50% interest in those rights to Yellow Poplar Lumber Company, Inc.

6. The Bankruptcy Court still has jurisdiction over these assets because Yellow Poplar did not list them on the schedules when the case commenced and the Trustee never administered them.

7. While the 1898 Bankruptcy Act does not expressly allow interest when there is a surplus available for the creditors, reported decisions have allowed interest on claims as a matter of equity, and therefore, the Trustee proposes to make a distribution with interest to the creditors.

8. 28 U.S.C. §1961 is the present day statute allowing interest on judgments awarded in federal courts and it sets the rate at the one year constant maturity treasury yield for the calendar week preceding the judgment, compounded annually.

9. The former 28 U.S.C. §811 was the statute on judgment interest in effect at the time of the Yellow Poplar bankruptcy filing and it required the calculation of interest at such rates as allowed by the state courts.

10. After a review of the legal authority on the question of the appropriate interest rate to pay on claims where there is a surplus, the Trustee concludes that the federal rate of interest on judgments provides the most uniform and equitable measure with which to propose payment because the Yellow Poplar debts arose from multiple jurisdictions.

11. Prior to the year 2000, 28 U.S.C. §1961 allowed interest on judgments from the U.S. District Court tied and set the rate at the average accepted auction price for 52 week treasury bill sales.

12. Based upon research of the Trustee and the CPA for the Estate, the Trustee has chosen to pay interest at the rate of 2.4% from November 10, 1930 and to compute the total as

simple interest with no compounding because there is no statutory requirement to do so.

13. The Trustee proposes the following interim distribution to pay the unsecured creditors in full:

<u>Creditor</u>	<u>Amount</u>
a. White Oak Lumber Company	\$326,813.24
b. Iron City Savings Bank	\$ 56,702.49
c. Willie Johnson	\$ 7,540.96
d. Norfolk and Western Railroad	\$ 0.00
e. National Lumber Manufacturers Credit Association	\$ 186.58
f. Thomas L. Zimmerman, assignee of Daniel Von Bremen	\$ 22,477.05
g. Thomas L. Zimmerman	\$ 1,138.74
h. C.T. Venable	\$ 373.14
i. Union Sulfur Company	\$ 3,732.36

14. The Trustee has set out the distribution using the names of the claimants from the 1928 bankruptcy schedules available to him, but realizes that none of these individuals are still living and the corporations either terminated business or merged with other entities.

15. The Trustee has retained a genealogist to assist in researching the identity of these creditors, but will ask the Court for approval of terms and conditions on which to distribute the funds to any parties coming forward seeking payment of funds from the Bankruptcy Estate.

16. All parties claiming to be successors in interest to these creditors shall provide before payment adequate information for the Trustee and the Court to conclude that they are actually the parties entitled to the payment of these funds.

WHEREFORE, your Trustee prays that this Court enter an order approving the interim distribution in the amounts proposed by the Trustee, set terms and conditions for the payment of

the distribution to the successors in interest of the claimants, and grant such other relief as is equitable and just.

TRUSTEE FOR THE ESTATE OF YELLOW
POPLAR LUMBER COMPANY
By Counsel

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CERTIFICATE

I, John M. Lamie, do hereby certify that I have filed a true and correct copy of the foregoing Motion by CM/ECF filing thereby causing an electronic copy to be transmitted to all electronic users and have mailed by U.S. Mail this 7th day of September, 2018 a true and correct copy to all known creditors and parties in interest in this proceeding. Additional service shall also be made pursuant to the Order of Publication tendered to the Court on the 7th day of September, 2018 for those parties whose identity or addresses are not yet know to the Trustee.

/s/ John M. Lamie
John M. Lamie