

## LOCAL RULE 3011-1: UNCLAIMED DIVIDENDS

- (a) **Depositing of Unclaimed Funds.** Unclaimed dividends shall be submitted to the Court no earlier than the time period set forth in 11 U.S.C. § 347. The party submitting the unclaimed dividends shall certify that the claim remains unsatisfied, describe the party's efforts to locate claimant, and, pursuant to Fed. R. Bankr. P. 3011, state the last known address for the claimant.
- (b) **Motion for Payment of Unclaimed Funds.** Any party<sup>1</sup> who seeks the release of unclaimed dividends held pursuant to 11 U.S.C. § 347(a) must file a motion for payment of unclaimed dividends in substantial conformance with Exhibit A and serve a copy of the motion on the United States Attorney for the District of South Carolina.<sup>2</sup>
- (c) **Identifying Information.** The movant shall submit Exhibit B and provide the information required therein.<sup>3</sup>
- (d) **Supporting Documentation.** The following supporting documentation, if applicable, shall be required:
- (1) **All Corporate Claimants.**
    - (A) A statement of the movant's authority to sign the motion on behalf of the corporation.
  - (2) **Non-Original Claimants.**
    - (A) **All Non-Original Claimants.** Documentary evidence clearly setting forth the chain of title to the claim giving rise to the unclaimed dividend and the claimant's entitlement to the funds.
    - (B) **Non-Original Corporate Claimants.**<sup>4</sup> In addition to the information required by paragraphs (d)(1)(A) and (d)(2)(A), the movant shall also file a corporate power of attorney signed by an officer of the claimant, which is stamped with the claimant's corporate seal,<sup>5</sup> and which provides the movant with the authority to recover the unclaimed dividends.
  - (3) **Deceased Claimant.** Certified copies of the probate documents establishing the movant's right to act on behalf of the deceased claimant's estate.
  - (4) **Representative Claimants.** A notarized original power of attorney establishing that the movant<sup>6</sup> is authorized to file the motion on behalf of the claimant.<sup>7</sup>
- (e) **Objection.** Any party objecting to the relief sought in the motion shall, within twenty-one (21) days after service thereof, serve upon the movant and other appropriate parties and file with the Court an objection to the motion. If no objection is filed with the Court within twenty-one (21) days after the filing of the motion, the motion and accompanying documents may be considered by the Court without hearing.

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<sup>1</sup> For purposes of this rule, the "movant" is the party filing the motion and the "claimant" is the party entitled to the unclaimed dividends. The movant and the claimant may be the same.

<sup>2</sup> All relevant parts of the motion must be completed for consideration.

<sup>3</sup> Exhibit B shall be filed in CM/ECF and public access shall be restricted.

<sup>4</sup> This provision also applies to corporate entities seeking payment on behalf of a related entity.

<sup>5</sup> If corporate seal is not affixed or available, then appropriate documentation is required which indicates the reason the seal is not affixed or available.

<sup>6</sup> All movants acting under a power of attorney must be represented by an attorney admitted to practice before this Court in accordance with SC LBR 2090-1.

<sup>7</sup> The Court will not issue payment to a claimant's representative.

**Notes:**

(2008) Former paragraph (a) was restyled. Former paragraphs (b) and (c) were deleted as unnecessary.

(2009) The objection period was amended to a multiple of seven as part of time computation amendments.

(2011) The rule and Exhibit A were amended to provide for more specific provisions regarding the submission of unclaimed dividends. The provision regarding the certificate of service was deleted as unnecessary pursuant to SC LBR 9013-3, which requires all motions to be accompanied by a certificate of service. Exhibit B was added to conform with requirements of the Administrative Office of the United States Courts and Fed. R. Bankr. P. 9037.