

14th Annual
Consumer Bankruptcy Practice

NEW NATIONAL RULES

*Tips, Traps, and
Proper Service*

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NEW NATIONAL RULES

An examination of the Federal Bankruptcy Rule changes effective December 1, 2017, including tips you should know, traps you should avoid, and how to execute proper service.

Moderator: Hon. Marvin Isgur,
U.S. Bankruptcy Court, Southern District of
Texas - Houston, TX .

Panelists:

- **Layla D. Milligan**, Office of Deborah B. Langehennig, Chapter 13 Trustee - Austin, TX
- **Cristina Rodriguez**, Keeling Law Firm - Houston, TX
- **Behrooz P. Vida**, The Vida Law Firm - Bedford, TX

3002 PROOF OF CLAIMS

*New requirements
& file deadlines*

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RULE 3002

Filing Proof of Claim or Interest

(a) Necessity for Filing

A secured creditor, unsecured creditor or equity security holder must file a proof of claim or interest for the claim or interest to be allowed, except as provided in Rules 1019(3), 3003, 3004, and 3005. A lien that secures a claim against the debtor is not void due only to the failure of any entity to file a proof of claim.

NOTES

- Clarifies that a secured creditor must file a proof of claim
- Failure to file a secured POC does not void a lien
- The plan language in some districts binds secured creditors to the numbers set forth in the plan if no timely POC is filed

TIP: Object to late filed POCs to create a clear record of amounts due to satisfy a claim

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RULE 3002

Filing Proof of Claim or Interest

(c) Time for Filing

In a voluntary chapter 7 case, chapter 12 case, or chapter 13 case, a proof of claim is timely filed if it is filed not later than 70 days after the order for relief under that chapter or the date of the order of conversion to a case under chapter 12 or 13. In an involuntary chapter 7 case, a proof of claim is timely filed if it is filed not later than 90 days after the order for relief under that chapter is entered.

NEW DEADLINES

- New deadline to file a proof of claim is 70 days after petition date
 - Changed from 90 days after first date for §341 meeting of creditors
- Government deadline is 180 days after petition date

RULE 3002 (continued)

(c) (6) Time for Filing

(c)(6) On motion filed by a creditor before or after the expiration of the time to file a proof of claim, the court may extend the time by not more than 60 days from the date of the order granting the motion. The motion may be granted if the court finds that:

- (A) the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim because the debtor failed to **timely** file the list of creditors' names and addresses required by Rule 1007(a); or...

EXCEPTIONS

Two reasons for an extension to file a POC are both based on insufficient notice because:

1. Debtor failed to give **timely notice** by listing the creditor in creditor's matrix
 - Rule 1007(a) requires the creditor matrix to be filed with the petition
2. Debtor gave notice to a foreign address

TIP: File a complete creditor matrix on the petition date with accurate creditor addresses

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