



Comments Proposed Changes to Bankruptcy Rules

Mark Cornell o Rules_Comments

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I am an attorney with a practice dedicated to representing consumers and small businesses in chapter 7 and chapter 13 bankruptcy cases. I am writing to express my support for the proposed amendments to Bankruptcy Rules 2003 and 3001, and the new proposed Bankruptcy Rule 3002.1.

The proposed changes in Bankruptcy Rule 2003 will expedite the bankruptcy process for the benefit of both debtors and creditors. The practice of adjourning the meeting of creditors indefinitely allows the bankruptcy trustee to put the case on the back burner and not expeditiously administer the case. This practice harms debtors because their case drags on without resolution. The bankruptcy process is extremely stressful to debtors and continuing the meeting of creditors indefinitely needlessly increases the stress they are under. Creditors are also harmed as the more time that passes before the administration of the case, the more likely they are to have closed out their records and the creditor may not be able to file a claim. The Supreme Court has long recognized the importance of the expeditious administration of bankruptcy estates. See *Katchen v. Landy*, 382 U.S. 323, 86 S.Ct. 467, 15 L.Ed.2d 391 (1966), *Taylor v. Freeland Kronz*, 503 U.S. 638, 112 S.Ct. 1644, 118 L.Ed.2d 280 (1992). The proposed Amendment to Bankruptcy Rule 2003 is consistent with the expeditious resolution of bankruptcy cases for the benefit of both debtors and creditors.

The proposed amendment to Bankruptcy Rule 3001 is long overdue. With the rise of an entire industry of debt buyers and claims purchasing, debtors and the bankruptcy trustee have a very difficult time matching the claims listed in the bankruptcy petition with the claims filed. In chapter 13 cases, I routinely review claims filed in a bankruptcy case and less than 20% of the claims are filed by the original creditors. Matching the claims filed with the claims scheduled is a daunting task. Chapter 7 Trustees no doubt have an even more difficult time trying to ascertain which claims are actually scheduled in the bankruptcy petition.

In reviewing claims files, I have on occasion discovered claims that were more than ten years old, and sometimes even claims discharged in a prior bankruptcy in the distant past. These claims are always filed by purchasers of the debt. They are normally not scheduled in the petition as they were long ago barred by the statute of limitations or the prior bankruptcy discharge. If I did not have easy access to my clients to review these claims, I would never be able to ascertain what these claims were for. As I only review filed claims in my chapter 13 cases and not my chapter 7 asset cases, I have no idea how many of these objectionable claims have been paid by chapter 7 trustees in my cases. I note that the information that would be required to comply with the proposed amendment is no more than the information that the creditor would be required to provide to prevail in a state court collection action.

The proposed amendment to Rule 3001 is a much needed step to protect the integrity of the court system and to ease the burdens on bankruptcy trustees, the United States Trustee's Office, and Debtors. Providing proof of ownership and information as to the underlying claim is hardly a burden to the creditor.

The proposed new Bankruptcy Rule 3002.1 is the most important amendment to the Bankruptcy Rules

under consideration. I am constantly dealing with issues related to mystery charges and fees from their mortgage lender. Often these fees are related to attorneys fees never disclosed to the court or to the debtor during the course of the case. The common response when questioned about these fees is "We are lender, we can do what we want." The procedures in proposed Rule 3002.1 would avoid future litigation and are not a burden on creditors.

Thank you for your consideration of these comments.

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