

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA**

NOTICE OF NEW CLAIMS OBJECTION PROCEDURES

Background

The claims procedure currently used in the Southern District of Indiana in Chapter 7, 12, and 13 cases, permits trustees to present a comprehensive list of claims to be “allowed” or “disallowed” and obtain an order blessing that list and resolving any creditor responses. This procedure, to the extent it involves “allowed” claims, is not consistent with the Federal Rules of Bankruptcy Procedure (“FRBP”).

Pursuant to FRBP 3001(f), a properly filed proof of claim is prima facie evidence of the validity and amount of the claim. The Rules do not contemplate the filing of anything concerning such a claim - it is already “allowed” and no Court order is needed. Claims can be “objected to” - FRBP 3007 - and claims can be “reconsidered” - FRBP 3008.

To complicate matters, amendments to FRBP 3007, effective 12/1/2007, further restrict procedures used to resolve claims. The practice of objecting to more than one claim in a single pleading (an omnibus objection) is frowned upon and permitted only in limited circumstances.

Accordingly, **effective December 1, 2007**, the procedure for resolving claims will change, as further described below. (Motions to allow or disallow pending as of 12/1 will be processed under the old procedures.) **Because December 1st falls on a Saturday, the events described below will not be available until Monday, December 3rd, so parties are asked to refrain from filing objections to claims on December 1st and 2nd.**

CM/ECF Docket Events

Except as indicated, the following events will be added to both the “Claims” category and the “Trustee/US Trustee” category. Other related events will remain, except for the “Allow Claim(s), Motion to” and “Disallow Claim(s), Motion to” and the trustee’s “Claims Application” events, which will be eliminated.

- Objection to Claim - [this event exists now, but will be edited]
- Omnibus Objection to Claims
- Response to Objection to Claim - in Claims category only [and in “Objections” category for convenience]
- Report on Claims - in Trustee/US Trustee category only
- Motion to Reconsider Order Allowing/Disallowing Claim

How each event works is discussed below.

Trustees

Under the “Trustee/US Trustee” events category, the trustee would select either “Objection to Claim” or “Omnibus Objection to Claims”.

The Objection to Claim event is used when the trustee is objecting to a single claim for a reason other than one of the eight shown in FRBP 3007(d). When the event is selected, the filer will be notified that the Omnibus Objection to Claims event is also available. That notice will include a link to a list of grounds for objection that qualify for the Omnibus Objection event. In the Objection to Claim event the filer will note the claim number in docket text. Each Objection to Claim should have attached or be accompanied by a Certificate of Service that includes the debtor, U.S. Trustee, the listed claimant, and counsel for that claimant, if any. Every Objection to Claim will be set for hearing on at least 30 days’ notice. That notice will be issued by BNC, and goes only to the trustee, the U.S. Trustee, the debtor, the named claimant, and counsel for that claimant, if any. After the hearing, the trustee should upload the appropriate order.

The Omnibus Objection to Claims event is used when the trustee is objecting to a claim or multiple claims for one of the reasons shown in FRBP 3007(d). [Note: because of the “notice and opportunity” treatment given to these objections, the event is still appropriate even if the trustee is objecting to only one claim, so long as that objection falls under one of the categories in FRBP 3007(d).] The filer will be asked to confirm that in fact the pleading is an appropriate omnibus objection. The pleading will have attached or be accompanied by a Certificate of Service that shows the debtor, the U.S. Trustee, all claimants to be affected by the objection, and counsel for those claimants. The Omnibus Objection to Claims results in a notice providing 30 days for the claimants to file a response. That notice gets issued through BNC and goes to the trustee, the U.S. Trustee, the debtor, and all named claimants. The event will include the option of adding a numeric indicator (i.e., “*First Omnibus Objection*”, “*Second*”, etc.) as a prefix to the docket text. **A sample “Omnibus Objection to Claims” form is available on the Clerk’s Website under “Local Forms and Instructions”.**

The party filing the Objection or Omnibus Objection will be responsible for uploading the appropriate order after the objection period expires. If the order proposes different treatment for a claim than that originally requested, the order should indicate the reason for the change unless it is apparent from the Court’s record through a separate stipulation or an amended claim. For example, if a trustee objects to a claim because it is lacking documentation, and the creditor submits that documentation without filing a new proof of claim, then the order should note that the objection was withdrawn because documentation was provided.

The Report on Claims event is purely informational. Filing of a report does not result in any notice, hearing, or order. [In discussions, Chapter 7 trustees advised that they are unlikely to use the event; Chapter 13 trustees are more inclined to do so.]

A filing under the “Motion to Reconsider Order Allowing/Disallowing Claim” event will

result in a hearing. Less than 30 days' notice is permitted.

Debtors-in-Possession and Debtors

The same procedures apply for filing Objection to Claim or Omnibus Objection to Claims as described for trustees, except that these parties will access the events under the "Claims" portion of the menu. A Certificate of Service is also required. See the instructions for that Certificate of Service under the "Trustees" section, above.

For objections filed by debtors in cases under Chapters 7, 12, and 13, the Clerk will handle notice in the same manner as trustee objections: a hearing will be set on each Objection, while an Omnibus Objection will result in a notice setting a deadline for response. In Chapter 11 cases, responsibility for issuing the hearing or response deadline notice may be shifted back onto the entity that filed the objection.

Orders must be submitted by the objecting party, and should be uploaded after the objection period has expired or after any hearing.

Debtors in Chapter 7, 12, and 13 cases should not "object" to a trustee's objection to a claim. The proper docket event to select is either "Response to Objection to Claim" - used if the debtor disagrees with the trustee's proposed treatment of the claim - or "Objection to Claim" or "Omnibus Objection to Claims" if the debtor challenges a claim or claims which the trustee did not object to or objects for reasons different from the trustee's.

Creditors

A creditor who disagrees with an objection to the creditor's claim should use the "Response to Objection to Claim" event. If the order has already been entered, the "Motion to Reconsider Order Allowing/Disallowing Claim" event is appropriate.

November 19, 2007

/s/ Kevin P. Dempsey
Bankruptcy Clerk