

## TRUSTEE FAQ ON NEW CLAIMS PROCEDURE

Here are some of the frequently asked questions that have arisen since the new procedure on claims became effective, and the Clerk's answers.

### **1. Should I still be sending a notice along with the objection?**

No! The Court is issuing a notice on every objection and omnibus objection. If you also issue a notice, that creates confusion, particularly when the notices conflict. Every "non-omnibus" objection gets set for hearing. An omnibus objection results in a notice that requires a response by a claimant before a hearing will be set, and imposes a deadline for those responses.

Please be sure to change your forms and refrain from issuing your own notice on claims objections of either type.

### **2. Can I still call my pleading "allowance and disallowance of claims" or something similar?**

Please don't. The docket events now are only objection and omnibus objection. Remember that the procedure takes us away from the practice of "allowing" claims - since all claims are allowed by law, unless someone files an objection.

It is preferred that captions match the docket events: objection to claims and omnibus objection to claims - with the latter including the number of the omnibus objection. (However, the Clerk is not issuing deficiency notices if the first omnibus objection fails to include in its caption the word "first.")

### **3. Can I call it an "omnibus objection" even if I am only objecting to one claim?**

Yes! So long as that objection fits under one of the FRBP 3007(d) categories, you can use the omnibus objection event for your objection to that claim. Note that the principal advantage of using the omnibus objection event is avoiding an "automatic" hearing. Your objection still needs to follow the format requirements for an omnibus objection, however.

An objection to a single claim that isn't covered by FRBP 3007(d) and is not filed using the omnibus objection event will always get a hearing date.

### **4. Can I use an omnibus objection to challenge a secured claim when the collateral wasn't administered in the estate?**

The Clerk can't give you legal advice about when use of FRBP 3007(d) is appropriate. Clerk staff won't be conducting substantive review of omnibus objections. We can tell you that many trustees are invoking subsection (d)(5) and using the omnibus objection

form to oppose secured claims.

**5. Can I use an omnibus objection to challenge a claim that has been reaffirmed?**

Again, the Clerk can't give legal advice, but Clerk staff won't be conducting substantive review of such objections. One trustee has theorized that a reaffirmation agreement is a novation, and that is a satisfaction of the claim and subject to subparagraph (d)(5).

Should any local judicial guidance be received on proper use of the omnibus objection event, that will be shared with trustees immediately.

**6. Can I use an omnibus objection to note that a claim was late-filed and will be allowed only in that status?**

(This question applies only to Chapter 7 trustees.) Once again the Clerk can't give you legal advice. However, other trustees are doing exactly that, invoking subparagraph (d)(4).

**7. What if I accidentally file an "objection" when I could have filed an "omnibus objection" - will the Clerk catch that?**

No. Your objection will be set for hearing. The Clerk staff will always presume that you selected "objection" instead of "omnibus objection" for a reason.

**8. Do I have to use the omnibus objection form on the Court's website?**

No. That form was provided only as a sample. It attempts to include all of the information required by the amendments to FRBP 3007.

**9. Can I still use the words "allow" and "disallow" as the proposed treatment of claims on my omnibus objection?**

Certainly, although the word "allow" standing alone would not be appropriate because you should not be listing any claim that is being allowed as filed. "Allow as general unsecured" or "allow as late filed" would be appropriate.

**10. Can I tender my order at the same time I file the objection?**

Courtroom services staff prefer that you do not. Experience has taught us that, particularly as to omnibus objections, your proposed treatment of claims and the final treatment of claims may vary, as a result of creditor response to your objection. Therefore, it is preferred that you not submit your order until the objection time has run or the hearing has concluded.