

DECEMBER 18, 2018 | PUBLICATION

Client Alert: Shorter Deadline for Filing Bankruptcy Claims and Other Changes to Bankruptcy Rules Starting December 1st

SERVICE LINE

Bankruptcy, Insolvency & Creditors' Rights
Litigation & Disputes

RELATED PROFESSIONALS

David J. Coyle

MEDIA CONTACT

Wendy M. Byrne
wbyrne@shumaker.com

Creditors need to know of significant changes about to occur to the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"). On December 1, 2017, certain amendments to the Bankruptcy Rules will become effective. This article discusses two of the changes: 1) the period for filing proofs of claim is being shortened, and 2) secured creditors must timely file a claim to receive a distribution.

The time period for filing proofs of claim in most bankruptcy proceedings is being shortened. Under the amendment to Rule 3002(c) of the Bankruptcy Rules, the deadline for filing a proof of claim, in voluntary cases under Chapters 7, 12, and 13, will be 70 days after the bankruptcy is filed. By setting the claims bar date at 70 days from the date the bankruptcy was filed, as compared to the current deadline of 90 days from the date of the Section 341 meeting, the amendments significantly shorten the time to file a claim from approximately four months to just over two months. Creditors will need to move much more quickly to get their claims filed.

The second change affects secured creditors. Under the newly amended Rule 3002(a), secured creditors will be required to file a claim by the claims bar date in order to receive a distribution from the debtor's estate. The new Rule 3002(a) also clarifies, in accordance with Section 506(d) of the Bankruptcy Code, that the failure to file a proof of claim does not affect the lien securing the debt. As a result, whether or not the secured creditor files a claim will not disturb the creditor's lien rights.

There are other amendments to the Bankruptcy Rules, that will be effective on December 1, 2017, that are not discussed here.

If you have any questions or would like more information, please contact David J. Coyle at 419.321.1418 or dcoyle@shumaker.com.