Comments To Rules
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02/23/2012 06:39 PM
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11-BK-015

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Advisory Committee on Bankruptcy Rules:

First I am in agreement with Judge Eric L. Frank's comments concerning Rule 3007(a). I believe there will be unintended consequences that will result in an unfair balance in the system and return to 'gotcha' for unsecured creditors. Judge Frank points out the need for ensuring structured balances in the system. Today, there is no penalty for the attorney or consumer specific to objections to proofs of claim that are frivolously filled without consideration other than rolling the dice a creditor may not answer or decide not to answer due to costs. I remain concerned as to the terms "statute of limitations" or "time barred" because individual state statutes govern statute of limitations or so called time barred debts. Most states specify the expiration of a set time that prohibits a creditor from filing a lawsuit to collect a debt. I am not certain filing a proof of claim on a time barred debt can be deemed a lawsuit and courts may have to interpret state law as well as federal law. I am uncertain if the role of a bankruptcy court should interpret state law but in fairness, objection to claims remains available but not by a informal notice which places an un-necessary burden to a creditor to respond before the time limit expires. I believe most agree that the BAPCPA was a poorly drafted law and as a consequence its' interpretation resulted in different consistent opinions that had similar facts or circumstances. Today we have not seen, as yet, the consequences of BR 3001 and its interpretation. I share Judge Frank's statement" the Committee needs to tread carefully when modifying the existing rules governing claim allowance" because my concern is creditors may opt not to file claims or become selective where to file and that isn't a balance to the system.

I oppose allowing a service provider to file the certificate of competition of the financial management course directly to the court, and this concur with Jeanne Hovenden's comment about BR 1007. The responsibility, in my opinion, lies with the debtor's attorney or if the debtor is pro se. Before responses come that Pro Se debtors do not understand the system, I have 22 bankruptcy cases on my desk now that are now coded by the court as "terminated" which may be a new term to some but means the debtor has not received the discharge order

because they did not complete the financial course. 21 of these cases had attorney representation so now creditors have another decision, even though likely most of the debts listed in the bankruptcy have already been charged off: Contact the debtor since there is no stay? Contact the attorney to ask why and if his/her client going to re-file another bankruptcy so they can complete the financial course and receive a discharge? Or just ignore completely? I don't want to sound derogatory to anyone. To the contrary, this is an example of unintended consequences that eventually fall back on a creditor since they have not been paid but likely the attorney has received his/her full retainer for services rendered and at least the credit counseling agency was paid for the pre credit counseling certificate.

Respectfully,

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