

CREDITOR'S RIGHTS TOOLKIT

The Debtor (or Its Successor) Has Objected to My Claim — What Do I Need to Do?

Often, after filing a proof of claim, a creditor can go months, or even years, without hearing anything regarding their claim. Then, unexpectedly, the creditor's proof of claim faces an objection, possibly on multiple grounds, with a limited window to respond. A claim objection can raise several important strategic considerations for crafting the best response.

Key Issues

- **ANTICIPATE THE OBJECTION**

A creditor should review the debtor's schedules to see how the debtor has listed the claim. If the amount is less than the creditor believes is owed, as asserted in the creditor's proof of claim, or if the scheduled claim is listed as contingent, disputed, or unliquidated, the creditor should expect its claim may be objected to.

- **MONITOR FOR THE OBJECTION**

In addition to claims administration in a Chapter 11 case often being a very prolonged process, claim objections are often asserted as omnibus objections — which can address up to 100 claims at once. This makes it easy for a creditor to be unaware that an objection to its claim has even been asserted. If a creditor misses its deadline to respond to a claim objection, an order will be entered sustaining the objection, and the claim will be altered in accordance with the objection (e.g., lowered, dropped in priority, entirely disallowed). Moreover, even when a creditor learns of an objection, the time period to respond is very short (30 days from service of the objection per the Bankruptcy Code). For this reason, it is vital to have bankruptcy counsel monitoring the docket for claim objections to ensure timely action is taken.

- **UNDERSTAND THE OBJECTION**

A debtor, trustee, or plan administrator may object to the claim on a substantive basis. Such an objection could involve something as straightforward as the amount of a creditor's claim — despite what the creditor asserts, the debtor's books and records show a smaller amount owed or show no liability at all. Alternatively, a substantive objection could be leveled at the asserted priority of a claim — the creditor asserts that some, or all of its claim was entitled to administrative expense priority, but the objector argues it should be treated as a general

unsecured claim. A debtor, trustee, or plan administrator could also make nonsubstantive objections, such as objecting to late-filed claims or duplicate claims. The response to an objection, whether in a filed response or in negotiations, will vary based on the type of objection asserted. For example, a dispute on the proper claim amount may be resolved through the parties exchanging the documentation supporting each side's respective asserted claim amount and arriving at a compromise, while a dispute on priority may come down to nuanced legal argument. An objection on a duplicate claim may require no response — often creditors do (and should) assert the same claim against multiple debtors if it is unclear which debtor is actually liable for the claim. As long as an objection for duplicate claims leaves one claim surviving against the correct debtor, the objection should not be problematic for the creditor.

- **EVALUATE THE OBJECTION**

When faced with a claim objection, a creditor can file a response and potentially fully litigate the claim at one or multiple hearings, one of which will likely be an evidentiary hearing requiring a creditor to provide a witness and evidence to support its asserted claim. On the other hand, a creditor can try to negotiate with the debtor, trustee, or plan administrator to resolve the objection — perhaps taking a reduction on the asserted claim but avoiding the expense of litigation. The amount and priority of a creditor's claim, along with the nature of the objection, will dictate the most appropriate response. If a creditor's claim is for a large amount and asserted as an administrative expense claim (entitled to payment in full), then a more hardline approach, with willingness to litigate, may be in order. On the other hand, a relatively de minimis general unsecured claim that is likely to be paid pennies on the dollar under a plan may not be worth the expense of filing a formal response to an objection, with all efforts focused on negotiating with the debtor, trustee, or plan administrator as efficiently as possible. Experienced bankruptcy counsel can help a creditor understand what exactly is at stake and how best to proceed with the objecting party.

Takeaway

The claims administration process is multifaceted and nuanced. Real value in a creditor's claim can be lost due to improper responses to claim objections or, alternatively, a creditor could risk wasting resources litigating an objection that would be better negotiated or simply ignored. Experienced bankruptcy counsel can ensure that a creditor takes the best value-maximizing approach when faced with an objection to its claim.