

### What creditors need to know when they file proofs of claim

Creditors are being sued for exposing debtors to identity theft. There is a growing trend amongst debtors' counsel to sue creditors for damages based upon creditors' failure to meet the requirements of Federal Rule of Bankruptcy Procedure 9037.

Rule 9037 was enacted to protect individual debtors against identity theft and prohibits filing documents which contain any of the following:

- An individual's social security number;
- An individual's taxpayer identification number;
- An individual's financial account number;
- An individual's date of birth; or
- The name of any individual known to be and identified as a minor.

The US Trustee's office recently conducted a review of proofs of claim and found over half the claims filed in individual debtor bankruptcy cases included the debtor's complete social security number and/or the debtor's date of birth. The information was found either on the proof of claim form itself *or in the supporting documentation*. In addition, medical providers often included back-up documentation which provided confidential patient information including specific treatments.

If you are preparing a proof of claim and the debtor is an individual, be sure to review all supporting documentation to ensure the documents do not include any of the prohibited information. If the documents do contain such information, be sure to black it out.

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