

Dates Matter in Bankruptcy: As Two Recent Decisions Emphasize, Creditors Failing to Comply With Bankruptcy Deadlines Face Dire Consequences

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When a debtor commences a commercial bankruptcy proceeding, trade creditors, contract counterparties, and other parties with claims or potential claims against the debtor—liquidated or unliquidated—are generally aware of the requirement to file a “proof of claim” by the “bar date” deadline (“Bar Date”) established by an order of the bankruptcy court or, in some jurisdictions, local court rules. The Bar Date is usually set early on in Chapter 11 bankruptcy cases, with broad notice provided to creditors of the deadline to file claims for amounts owed as of the bankruptcy petition date. In many cases, a debtor may also seek approval to publish notice of the Bar Date in order to bind unknown creditors that cannot be readily identified in its books and records. This deadline is strictly enforced. Absent extenuating circumstances, creditors cannot pursue any recovery if they miss the Bar Date...

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Philip Gross is Counsel in Lowenstein Sandler’s Bankruptcy & Restructuring Department. Philip provides creative and practical advice to debtors, creditors’ committees, liquidating trustees, secured and unsecured creditors, and asset purchasers in commercial bankruptcy proceedings. He has extensive experience in bankruptcy hearings and trials around the country.