

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

**PROCEDURAL GUIDELINES FOR FILING
REQUESTS FOR ORDERS TO SET THE LAST
DATE FOR FILING PROOFS OF CLAIM**

The purpose of these guidelines is to provide a standard form for orders to establish deadlines for the filing of proofs of claim (“Bar Order”) in chapter 11 cases and thereby expedite court review and entry of such orders.

The Court will expect that all proposed Bar Orders will conform to the following guidelines and use the standard form of order and notice, with only such revisions as are necessary under the circumstances of the individual case or cases. **If a proposed Bar Order and accompanying notice do not comply with these guidelines, counsel must identify and explain, in the application for approval of the Bar Order, the reason for each deviation.** These forms and the guidelines apply only in chapter 11 cases and do not apply to deadlines for filing administrative claims.

GUIDELINES

1. An application for entry of a Bar Order must ordinarily be filed within thirty (30) days after the later of (i) the initial case conference and (ii) the filing of the debtor’s Schedules of Assets and Liabilities and Schedules of Executory Contracts and Unexpired Leases. If counsel believes that entry of a Bar Order should be further delayed for any reason, counsel is urged to take up the matter at the initial case conference.

2. Assuming these guidelines are followed, the application and accompanying papers may be submitted to the Court without further notice as long as the application represents that the Order has been approved in form and substance by any official creditors committee, by any debtor in possession lender and by any secured creditor with a lien on a substantial portion of the debtor's assets. If this representation cannot be made, the proposed Bar Order may be submitted by notice of presentment or by notice of motion on notice to any official committee, any debtor in possession lender, any party requesting notice, and the United States trustee.
3. The application shall contain proposed dates for the last date to file claims (the "Bar Date"), for mailing the notice and, where appropriate, for publication, provided that, in most cases the suggested Bar Date should be at least thirty-five (35) days after the mailing date and at least twenty-eight (28) days after the publication date, and provided further, if possible, the dates proposed by counsel provide the Court with at least seven (7) days after the application is submitted to process the order. If applicable, the application should take into account the procedural provisions pertaining to creditors with foreign addresses [see Federal Rule of Bankruptcy Procedure 2002(p)]. For cause shown, the Court can reduce the notice period to twenty-one (21) days after mailing in accordance with Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules") 2002(a)(7) and 9006(c)(2).
4. The attached form of order and the accompanying form of notice to creditors assume that there are multiple debtors in jointly administered cases. In such cases, the debtors must list each of the debtors and their related case numbers as part of, or as an addendum to,

the notice to creditors. In single-debtor cases, the attached forms should be modified to reflect that only one debtor has filed.

5. The attached form of order contains a paragraph in brackets providing for publication of notice of the Bar Date. These guidelines do not take any position as to whether publication notice of the Bar Date is required in a particular case. Counsel should state in the application for a Bar Date whether they believe publication is required and, if so, the time and place of publication and in appropriate cases should raise the issue at the initial case conference. The published notice should be substantially similar to the written notice to creditors, although it may omit certain provisions (such as the definition of the term “claim”) in order to reduce costs.
6. The attached form of order and notice contain instructions for filing proofs of claim with the Court. In cases where it is anticipated that more than two hundred fifty (250) proofs of claim will be filed, counsel must arrange with a claims/noticing agent (“Claims Agent”) appointed by court order to provide an address to receive mailed proofs of claim. In such cases, counsel must also provide creditors with individualized proof of claim forms, and the order has a suggested paragraph for use in such situations. In smaller cases, where it is not necessary to utilize a claims agent, a proof of claim may be created and electronically filed through the Court’s website or filed electronically on the Court’s Case Management/Electronic Case File (CM/ECF) system with the use of a CM/ECF account.
7. If a Claims Agent is used in connection with the administration of the mailing of the notice of the Bar Date and related matters, such agent should be retained pursuant to

Court order. A form application and order that lists the services the firm should provide is available on the Court's web site.

8. The attached form of order is intended for use only in connection with the filing of proofs of claim. If a deadline is required for the filing of proofs of equity interest, a substantially similar motion may be filed, or counsel may submit an order and accompanying notice that combines a Bar Date for the filing of proofs of claim and proofs of interest. Notice of a deadline for the filing of administrative claims should **not** ordinarily be combined with a notice of any other Bar Date.

9. The attached forms of order and notice contain a list of persons and entities that are exempted from the requirement to file a proof of claim. It is anticipated that the persons and entities listed in the forms provided will not be required to file proofs of claim in most chapter 11 cases, although there will of course be variations in specific situations and the list is not intended to be exhaustive. Some of the subparagraphs are bracketed, reflecting the fact that the exemption may often have no application or that the debtor may choose not to exempt the particular category from the filing requirement. In addition to those creditors who are listed in the attached form of notice and order, a debtor may wish to consider (i) exempting claims of its officers, directors, and employees for indemnification, contribution or reimbursement; (ii) exempting claims of persons or entities against any of the debtors, non-debtor affiliates; and (iii) exempting claims for principal, interest and applicable fees and charges on a bond, note or debenture, provided that any indenture trustee for such instrument would not be exempted from the requirement of filing a proof of claim, and provided further that each holder would be

required to file a proof of claim for damages in connection with respect to its ownership of, or purchase or sale of, the applicable instrument.

10. The notice to creditors should contain the name and telephone number of an individual at the law firm representing the debtor or at a bankruptcy services firm retained by the debtor to whom questions may be addressed. The notice should not contain the name of the bankruptcy judge but may provide that the notice is “By Order of the Court.”
11. The electronic media submitted to the Court with the order should contain not only the form of Bar Order but also the text of the notice to creditors, in the event that the notice needs to be revised before entry.