6-29/112.00 Proof of Claim

11 USC 726 governs the distribution of the property of the estate and provides for six classes of claims. Each class must be paid in full before the next lower class is paid anything. The debtor is only paid if all other classes of claims have been paid in full.

A creditor seeking compensation from the debtor's assets may file a proof of claim with the bankruptcy clerk. Unsecured creditors and equity security holders in Chapter 7 asset cases and Chapter 13 cases must file proofs of claim within 90 days after the first date set for the 341 meeting of creditors. (FRBP 3002(a)) Chapter 7 cases are initially processed as no-asset cases and creditors are instructed not to file proof of claim unless notified by the clerk. (FRBP 2002(e), 3002(c)(5)) If the trustee determines that assets may be available, the clerk will notify creditors to file proofs of claim within 90 days of mailing of the notice. (FRBP 3002(c)(5))

Under Chapter 11, a creditor or equity security holder whose claim is scheduled but not listed as disputed, contingent or unliquidated does not need to file a proof of claim. (FRBP 3003(b)(1), (2)) If the claim or interest is not scheduled, listed incorrectly, or scheduled as disputed, contingent, or unliquidated, the creditor or security holder must file a proof of claim to receive any distribution or retain any voting rights. (FRBP 3003(c)(2)) The court normally sets a deadline (bar date) for filing claims. (FRBP 3003(c)(3))

An objection to a claim may result in either a contested matter or an adversary proceeding. (FRBP

3007) Any party in interest may object to the allowance of a claim. (11 USC 502(a)) An objection to a claim usually initiates a contested matter. (FRBP 3007) If the objection to claim contains a counter- claim seeking relief of the kind specified in FRBP 7001, it becomes an adversary proceeding. (FRBP 3007)