



ORDER NOT FOR PUBLICATION
UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:

KENNETH & RUTH DYMMEL,

Debtors.

Case No. 2:15-bk-12558-RK

Chapter 11

**ORDER DENYING FIRST AMENDED
MOTION FOR OMNIBUS ORDER
DISALLOWING CLAIMS**

Date: September 2, 2015
Time: 11:00 a.m.
Place: Courtroom 1675
255 East Temple Street
Los Angeles, CA 90012

Pending before the court is Debtors' First Amended Motion for Omnibus Order Disallowing Claims ("Omnibus Motion"). ECF 115. The Omnibus Motion, which seeks disallowance of three claims, Claim No. 8 filed by Wells Fargo Bank, and Claims No. 10 and No. 11 filed by Bank of America, is set for hearing before the court on September 2, 2015 at 11:00 a.m. No opposition was filed to the Omnibus Motion.

Having reviewed the moving papers, the court determines that oral argument is unnecessary, dispenses with oral argument, takes the Omnibus Motion under submission, vacates the hearing on the Motion set for September 2, 2015, and makes the following ruling.

1 By the Omnibus Motion, Debtors seek disallowance of three claims filed by
2 two creditors, Wells Fargo Bank and Bank of America, which filed claims against
3 Debtors for allegedly unpaid credit card debt, and Debtors have invoked the
4 Omnibus Objection procedures of Rule 3007(d) of the Federal Rules of
5 Bankruptcy Procedure. Omnibus Motion at 1. Rule 3007(c) sets forth the general
6 rule of claims objection that joinder of claims objections is not permitted: “Unless
7 otherwise ordered by the court or permitted by subdivision (d), objections to more
8 than one claim shall not be joined in a single objection.” As Collier on Bankruptcy
9 observes, “[t]he use of omnibus objections has led to various problems” raising
10 due process concerns. 9 Resnick and Sommer, *Collier on Bankruptcy*, ¶ 3007.03
11 at 3007-11 – 3007-12 (16th ed. 2015).

12 Rule 3007(d) authorizes the filing of an “omnibus objection” if all of the
13 claims were filed by the same entity or the objections are based solely on certain
14 grounds specified by Rule 3007(d), which are: (1) they duplicate other claims; (2)
15 they have been filed in the wrong case; (3) they have been replaced by
16 subsequently filed proofs of claims; (4) they were not timely filed; (5) they have
17 been satisfied or released during the case in accordance with the Bankruptcy
18 Code, applicable rules or a court order; (6) they were not presented in a form that
19 does not comply with applicable rules, and the objection states that the objector is
20 unable to determine the validity of the claim because of the noncompliance; (7)
21 they are interests rather than claims; or (8) they assert priority in an amount that
22 exceeds the maximum amount under 11 U.S.C. § 507. See *also*, 9 Resnick and
23 Sommer, *Collier on Bankruptcy*, ¶ 3007.05 at 3007-12 – 3007-13. This list
24 excludes the so-called “books and records” objection commonly found in omnibus
25 objections. *Id.* As Collier on Bankruptcy notes, “[s]uch an objection typically
26 asserts that the amount listed on the creditor’s proof of claim varies from the
27 books and records of the debtor,” and “[t]he objection was typically used as a
28

1 tactic to shift the burden of proof of the claim objection from the trustee to the
2 creditor.” *Id.*

3 After reviewing Debtors’ Omnibus Motion, the court determines that
4 Debtors’ use of the Omnibus Objection procedures are not permitted here
5 because such has not been ordered by the court and their objection to the claims
6 based on an alleged lack of documentation does not qualify as one of the
7 permitted claims objection categories as defined by Rule 3007(d), and thus, the
8 Omnibus Motion is subject to the general rule of Rule 3007(c) that joinder of
9 claims objections is not permitted. Debtors’ lack of documentation objection is
10 essentially a variant of the “books and records” objection which was excluded from
11 the authorized categories for making an omnibus claims objection under Rule
12 3007(d). Lack of documentation is not one of the categories of claims objections
13 specifically permitted for an omnibus objection under Rule 3007(d) and is
14 therefore subject to the general prohibition of joinder of claims objections under
15 Rule 3007(c). Accordingly, Debtors’ Omnibus Motion is procedurally improper and
16 should be denied.

17 The denial of the Omnibus Motion is without prejudice to allow Debtors to
18 file proper claims objections specifically directed to each individual creditor, Wells
19 Fargo Bank and Bank of America, as required by Rule 3007(c) generally
20 prohibiting joinder of claims objections.

21 ///

22 ///

1 For the foregoing reasons, the Omnibus Motion is denied without prejudice,
2 and the hearing on the Omnibus Motion set for September 2, 2015 at 11:00 a.m. is
3 vacated and taken off calendar. No appearances are required on September 2,
4 2015.

5 IT IS SO ORDERED.

6 ###
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

23 Date: August 31, 2015



24 Robert Kwan
25 United States Bankruptcy Judge
26
27
28