

Motion to Allow Late filed Claim filed jointly by Debtor and Creditor after the approval of TRCC was denied by the Court by res judicata and laches

Case: 09-20335 *Huddleston*

Docket: Miscellaneous Docket on 4/20/11 Tyler Docket

Facts: Chapter 13 Plan was confirmed on 3/24/10 providing for the payment of a claim secured by the debtors' travel trailer that the debtors use when one of the debtors works out-of-town. Neither the creditor or the debtors filed a proof of claim to support the payment of the claim. The TRCC was filed 8/9/10 noting that the creditor would not be paid due to no proof of claim on file and the TRCC was approved without objection on 9/20/10. Trustee filed his certification that all claims had been properly adjudicated. No disbursements were made or accrued to the creditor with the lien on the travel trailer. Motion to Allow Late-Filed Claim was filed jointly by the debtors and the creditor on 2/22/11 (approximately 5 months after the approval of the TRCC). Judge Parker set the Motion for hearing.

Ruling: Judge Parker denied the Motion, expressing his displeasure in the Motion on a number of grounds. First, Judge Parker stated that res judicata (the Order approving the TRCC that did not provide for the payment of the claim) barred the creditor from now seeking permission to file a late filed claim so it can somehow now be paid. Judge Parker expressed his opinion that the debtors' attorney should have timely filed a claim on behalf of the creditor if the debtors did in fact want that creditor paid through the plan. Judge Parker did make an additional statement that the debtors' attorney's failure to meet the time deadline for filing such a claim does not constitute excusable neglect to justify the allowance of the late filed claim. Second, Judge Parker also stated that the doctrine of laches prevented the filing of the late filed claim....i.e., a 5 month delay after the approval of the TRCC is too long.

Result: First, the approval of the TRCC does mean something by setting out who is getting paid and in what amounts. If any party contends that the TRCC does not accurately represent the terms of the confirmed plan as reconciled by the Trustee with the claims as filed, that party needs to object to the TRCC or be bound by the treatment to that under the concept of res judicata and maybe, if applicable, laches. Second, if debtors want a particular claim paid through the plan and the creditor fails to file such a claim by the bar date, the debtors must exercise their right to file a claim on behalf of that creditor within 30 days after the claims' bar date.