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HEALTHCARE BULLETIN

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NEW PRIVACY RULE IN BANKRUPTCY EFFECTS FILING PROOFS OF CLAIM

On December 1, 2007, Federal Rule of Bankruptcy Procedure 9037 (“Rule 9037”) became effective. Rule 9037, along with other similar rules in different types of Federal litigation, limits the amount of personal information that can be included in documents filed electronically in bankruptcy cases.

Specifically, Rule 9037 states that when filing papers electronically with the bankruptcy court that contain: (a) an individual’s social security number or a taxpayer’s identification number; (b) an individual’s birth date; (c) the name of an individual, other than the debtor, known to be and identified as a minor; or (d) a financial account number, the document being filed should be redacted to include only: (i) the last four digits of the social security number and/or taxpayer identification number; (ii) the year of the individual’s birth; (iii) the minor’s initials; and (iv) the last four digits of the financial account number.

Proofs of claim are statements filed by a creditor showing the type of debt and amount owed. The proofs of claim contain all of the supporting evidence regarding the amount owed. In the healthcare industry, supporting evidence will often contain the type of personal information targeted by the rule, especially where the debtor is a patient.

The practical effect of Rule 9037 is that physicians and other healthcare providers will need to closely monitor the supporting information attached to proofs of claim electronically filed in bankruptcy cases to ensure certain identifying information is not disclosed.

Rule 9037 contains specific exceptions to the redaction requirement; however, these exceptions are narrow in scope and are not likely to be applicable for the majority of creditors filing proofs of claims in bankruptcy cases.



Below is a chart summarizing the application of Rule 9037. To obtain a complete copy of, or for more information about, Rule 9037, contact Balch & Bingham LLP.

<i>If the document to be filed contains...</i>	<i>Then redact...</i>
Social security or taxpayer identification number	All numbers but the last four
Individual's birth date	The month and day of birth
The name of a minor that is not the debtor	The entire name except for the minor's initials
A financial account number	All numbers but the last four

Should you have any questions, please do not hesitate to contact one of our healthcare attorneys at the offices below.

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