



**Opinion Title:** 06/16/2003 UNPUBLISHED In re Scarbrough, 02-32949, Judge Thurman

**Body:** Goldenwest Credit Union filed a motion to extend the time to file a proof of claim in the case. The Debtors case was filed on August 5, 2002. When the Debtors filed their bankruptcy petition, they also filed a creditor matrix. For some unknown reason, an error occurred in the bankruptcy clerk's office and the matrix was not entered into the system. Subsequently, on August 21, 2002, notice of the meeting of creditors, as well as notice of the last day to file proofs of claim was sent to all parties in the case, but due to the error in failing to correctly enter the matrix, only one creditor, the Chapter 13 Trustee, the Debtors and Debtors' counsel received notice of the filing and of the claims bar date. The claims bar date was set for December 12, 2002. On April 2, 2003, Goldenwest Credit Union filed its motion to extend the time to file proofs of claim alleging that the failure to receive notice was cause to extend the deadline. The Court denied the motion under Bankruptcy Rules 9006(b)(3) and 3002(c) as interpreted by the Tenth Circuit Court of Appeals in *Jones v. Arros*, 9 F.3d 79 (10th Cir. 1993). While *Jones* was a case under Chapter 12, the Bankruptcy Court held that its holding was equally applicable to Chapter 13 cases and, therefore, held that, despite a creditor not receiving notice of a case, that the claims bar date is absolute and may not be extended. However, recognizing that a creditor may be deprived of due process if never given notice of the claims bar date, the Bankruptcy Court held a Debtor may be able to enlarge the time to file proofs of claim on behalf of creditors under Bankruptcy Rule 3004. The Bankruptcy Court held that the deadline for debtors filing proofs of claim on behalf of creditors may be enlarged upon a showing of "excusable neglect" on the part of the Debtors in not filing a proof of claim prior to the deadline set forth in Bankruptcy Rule 3004.

**File:**  [442.pdf](#) [1]

**Judge:** [Judge William T. Thurman](#) [2]

**Date:** Monday, June 16, 2003

**Source URL:** <https://www.utb.uscourts.gov/opinions/opinion-442#comment-0>

#### Links

[1] <https://www.utb.uscourts.gov/sites/default/files/opinions/442.pdf>

[2] <https://www.utb.uscourts.gov/content/judge-william-t-thurman>