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OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES
WASHINGTON, D.C. 20544

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MEMORANDUM

DATE: May 27, 2010

TO: Honorable Lee H. Rosenthal, Chair
Standing Committee on Rules of Practice and Procedure

FROM: Honorable Laura Taylor Swain, Chair
Advisory Committee on Bankruptcy Rules

RE: Report of the Advisory Committee on Bankruptcy Rules

I. Introduction

The Advisory Committee on Bankruptcy Rules met on April 29 and 30, 2010, in New Orleans, Louisiana. Among the matters before the Committee were the proposed amendments and new rules that were published for public comment in August 2009. More than 150 written comments were submitted in response to the publication. The Committee held a hearing in New York City on February 5, 2010. Fifteen witnesses testified on the proposed amendments to two rules and on one proposed new rule. The Committee also conducted a telephonic hearing with one witness on December 22, 2009.

Through a series of telephonic subcommittee meetings and at its New Orleans meeting, the Committee carefully considered all of the comments and testimony it had received and, as is discussed below, it is recommending changes to several of the published rules in response. The Committee also studied a number of new proposals for amendments to the Bankruptcy Rules and Forms.

The Committee took action on the following matters, which it presents to the Standing Committee with the indicated recommendations:

- (a) approval for transmission to the Judicial Conference of published amendments to Rules 2003, 2019, 3001, 4004, 6003, Official Forms 22A, 22B, and 22C, and new Rules 1004.2 and 3002.1;
- (b) approval for transmission to the Judicial Conference without publication of amendments to Official Forms 20A and 20B; and
- (c) approval for publication for comment of amendments to Rules 3001, 7054, and 7056, and Official Forms 10 and 25A, and new Official Forms 10 (Attachment A), 10 (Supplement 1), and 10 (Supplement 2).

After a discussion of the action items listed above, this report presents information on the following topics: the Committee's continued work on a possible revision of the bankruptcy appellate rules, the status of the Forms Modernization Project, and changes in the Committee's membership.

II. Action Items

A. Items for Final Approval

1. *Amendments and New Rules Published for Comment in August 2009.* **The Advisory Committee recommends that the proposed amendments and new rules that are summarized below be approved and forwarded to the Judicial Conference.** The texts of the amended rules and forms and of the new rules are set out in Appendix A.

Rule 1004.2 is new. Subdivision (a) requires that the entity filing a chapter 15 petition identify in the petition the country in which the debtor has the center of its main interests ("COMI"). It also requires that the filer list each country in which a case involving the debtor is pending. Subdivision (b) sets a deadline for challenging the statement of the debtor's COMI. In response to comments received after initial publication of the proposed rule in August 2008, the Committee changed the deadline in subdivision (b) for filing a motion challenging the COMI designation from "60 days after the notice of the petition has been given" to "no later than seven days before the date set for the hearing on the petition."

No comments were submitted on the proposed rule in response to the August 2009 publication. Only stylistic changes were made after that publication. The Committee voted unanimously to approve it.

Rule 2003 is amended in subdivision (e) to require the presiding official at a meeting of creditors to file a statement specifying the date and time to which the meeting is adjourned. This requirement will ensure that the record clearly reflects whether the meeting of creditors was concluded or adjourned to another day.

Nine comments were submitted about this proposed amendment. Eight of the comments expressed support for the amended rule as proposed. These comments were submitted by six individual members of the consumer bar, by Bankruptcy Judge Marvin Isgur of the Southern District of Texas, and by David Shaev on behalf of the National Association of Consumer Bankruptcy Attorneys.

The ninth comment was submitted by Deborah A. Butler, Associate Chief Counsel of the IRS, on behalf of the Office of Chief Counsel. She recommended revising the proposed amendment to require the official presiding at the meeting of creditors to specify whether the meeting is being held open pursuant to § 1308(b) to allow a taxpayer additional time to file a tax return, or adjourned for some other purpose. Only if the trustee declared that the meeting was being “held open” under § 1308(b) would the debtor be protected from dismissal or conversion under § 1307(e) for the failure to file a tax return within the time specified by § 1308.

The Committee, by a 9 to 4 vote, approved the amendment to Rule 2003(e) as published, with a clarifying change to the Committee Note. It concluded that holding open a meeting is equivalent to adjourning it to a specific date and that a chapter 13 case should not be subject to conversion or dismissal merely because of the language the trustee uses in adjourning a meeting of creditors.

Rule 2019 is amended to expand the scope of the rule’s coverage and the content of its disclosure requirements. As amended, the rule requires disclosures in chapter 9 and chapter 11 cases by committees, groups, or entities that consist of or represent more than one creditor or equity security holder. The type of financial information that must be disclosed is expanded to extend to all “disclosable economic interests,” a term that is broadly defined in subsection (a) to include, not just claims or interests, but all economic rights and interests that could affect the legal and strategic positions that a stakeholder takes in a case. Stylistic and organizational changes are made throughout the rule, resulting in new subdivisions (c), (d), and (e).

Publication of the proposed amendments to this rule attracted much attention. Seven witnesses presented testimony concerning the Rule 2019 amendments at the Committee’s hearing in New York on February 5, 2010, and 14 individuals or organizations submitted written comments on the amendments. The major topics addressed by the testimony and comments are discussed below.

Price and date of acquisition information. Most of the opposition to the published amendments focused on proposed Rule 2019(c)(2)(B) and (C) and (c)(3)(B) and (C). As published, these provisions would have required the disclosure of the date when each disclosable economic interest was acquired (if not more than one year before the filing of the petition) and, if directed by the court, the amount paid for each disclosable economic interest. These disclosure obligations would have applied to each covered entity, indenture trustee, member of a group or committee, and to each creditor or equity security holder represented by a covered entity, indenture trustee, or committee or group (other than an official committee).

The objectors to these provisions raised a consistent set of concerns:

- The price paid for a claim or interest is generally irrelevant to any issue in a chapter 11 case.
- If this information should ever be relevant, it could be obtained through discovery or pursuant to the court's inherent authority to order its disclosure.
- Pricing information is highly guarded by distressed debt purchasers. Requiring its disclosure will allow competing firms to determine the disclosing party's trading strategy.
- Parties in interest engage in the strategic use of the authority to compel the disclosure of this confidential information.
- The existence of this requirement, proposed to be made explicitly applicable to *ad hoc* committees, will discourage the formation of such groups and will decrease the purchasing of distressed debt.
- The disclosure of the date of purchase enables other parties to determine the purchase price. Thus the required disclosure in all cases of the date of purchase will result in the acquisition price being revealed, whether or not the court directs its disclosure.

Bankruptcy Judge Robert Gerber of the Southern District of New York testified in favor of the published amendments, including the provisions for disclosure of date and price of acquisition. He indicated, however, that a more general disclosure of the time of acquisition and a required showing of relevance of price might be sufficient to serve the rule's purposes.

Disclosure regarding clients who do not actively participate in the case. The National Bankruptcy Conference ("NBC") commented that an entity, such as a law firm, should not be made subject to the rule when it represents more than one client with respect to a chapter 11 case but it does not appear in court to seek or oppose the granting of relief on behalf of more than one of those clients. NBC argued that if a client remains passive in the case, there is no reason to require the public disclosure of its holdings merely because it retained a firm that happens to represent one or more other creditors or equity security holders.

Exclusions from the rule. Several comments asserted that administrative agents under credit agreements should not be required to disclose information regarding each of the lenders in its syndicated credit facility; others argued further that such agents should be exempted altogether from the rule's coverage. It was argued that these entities are not agents in the traditional sense of that term since the lenders are free to take positions adverse to the agent. Furthermore, it was contended, the lenders themselves are often not acting in concert with each other and so should not be covered by the rule just because there happens to be an administrative agent under the credit agreement.

Somewhat similarly, the argument was made that indenture trustees should not be required to make disclosures regarding every bondholder under the applicable indenture merely because the bonds were issued under an indenture. Another comment stated that the rule should be revised to make clear that it does not cover class action representatives.

Supplemental statements. Several comments addressed the proposed requirement in subdivision (d) that supplemental verified statements be filed monthly, setting forth any material changes in the facts disclosed in a previously filed statement. The comments expressed concern that the requirement would be overly burdensome on the parties and the court. Some commentators sought clarification that a supplemental statement would not have to be filed if no changes had occurred. One comment suggested that verified statements be supplemented only when the group, committee, or entity that filed the original statement was seeking to participate in matters before the court. That change, it was argued, would relieve parties no longer active in the case from the continuing obligation to file supplemental statements.

The enforcement provision of subdivision (e). The published draft of amended Rule 2019 proposed mostly organizational and stylistic changes to the existing provisions of Rule 2019(b), which authorize sanctions for the failure to comply with the rule's requirements. Under the revised rule, those provisions are set forth in subdivision (e). Although this part of the rule did not attract attention at the New York hearing, two sets of written comments criticized the breadth of proposed subdivision (e). Like the existing rule, the proposed subdivision would have authorized the court to determine and impose sanctions for violations of applicable law other than Rule 2019. It would also continue to specify certain materials that the court could examine in making its determination.

Both the comment submitted by the Loan Syndications and Trading Association ("LSTA") and the Securities Industry and Financial Markets Association ("SIFMA") and the comment submitted by the Insolvency Law Committee of the Business Law Section of the California State Bar questioned the authority of bankruptcy courts to determine "whether there has been any failure to comply with any other applicable law regulating the activities and personnel of any entity, group, committee, or indenture trustee" and "whether there has been any impropriety in connection with any solicitation." LSTA and SIFMA also argued that the materials that the court can examine in making a determination under this subdivision should be left to the Federal Rules of Evidence.

Disclosure by entities that are seeking or opposing relief. As published, Rule 2019(b) would have authorized the court, on motion of a party in interest or on its own motion, to require disclosure of some or all of the information specified in subdivision (c)(2) by an entity that seeks or opposes the granting of relief. This part of the rule would apply to individual entities that do not represent others. While disclosure by such entities would not be routinely required, the provision would authorize the court to order disclosure when knowledge of a party's economic stake in the debtor would assist the court in evaluating the party's arguments.

Two commentators expressed concerns about this part of the proposed rule. The Clearing House Association argued that the addition of the provision was inconsistent with the original purpose of the rule – protection of represented parties; that the information could be obtained by means of discovery or Rule 2004 if relevant; and that the provision would lead to abusive litigation by parties seeking merely to harass opponents. Bankruptcy Judge Michael Lynn of the Northern District of Texas also expressed concern about the likely tactical use of this provision. He suggested

that an order for such disclosure by an entity that is not representing others should issue only on the court's own motion, or on motion by the U.S. trustee, the case trustee, or an examiner.

Repeal of Rule 2019 or adoption of an alternative to its verified statement requirement. The Committee's consideration of Rule 2019 was prompted by a suggestion of two trade associations that the rule be repealed. After publication of the proposed amendments, however, those organizations no longer advocated repeal. The only commentator who supported repeal of Rule 2019 was attorney Thomas Lauria. In both his testimony and his written comments, he argued that the rule chills participation by *ad hoc* committees in chapter 11 cases, that it is used improperly for tactical purposes by parties, and that its valid purpose can be fulfilled by the use of discovery. Another attorney, Martin Bienenstock, suggested that parties be allowed to satisfy Rule 2019 by filing three certifications rather than the verified statement required by the rule. The certifications would require a party to state the amount of its pre- and postpetition claims against the debtor and whether it held economic interests in the debtor or in an affiliate of the debtor that would increase in value if the debtor's estate decreased in value.

The overwhelming majority of commentators supported a clarified and reinvigorated Rule 2019, even if they opposed specific aspects of the proposed amendments. They favored providing greater transparency in the chapter 11 reorganization process and permitting creditors and equity security holders to have access to information about possible conflicts of interest of those purporting to represent them.

The Committee's careful consideration of all the views expressed in the testimony and comments led it to make several changes to the published rule. In addition to stylistic changes, the Committee unanimously recommends that revised Rule 2019 be approved with the following changes made after publication, all of which are responsive to suggestions made in the comments and testimony and narrow in some respects the provisions of the published rule:

- the addition of a definition of "represent" or "represents" in subdivision (a)(2) that limits the meaning of the terms to taking a position before the court or soliciting votes on a plan, thereby removing entities that are only passively involved in a case from coverage under the rule;
- the addition of a provision in subdivision (b)(1) providing that the covered groups, committees, and entities are those that represent or consist of multiple creditors or equity security holders that act in concert to advance their common interests and are not composed entirely of affiliates or insiders of one another;
- the elimination of the provision in subdivision (b) of the published amendments that authorized the court to require disclosure by an entity that does not represent anyone else;
- the addition of subdivision (b)(2), which excludes certain entities from the rule's disclosure requirements unless the court orders otherwise;
- the elimination from subdivision (c) of the authorization for the court to order the disclosure of the amount paid for a disclosable economic interest;

- with respect to disclosure of the date of acquisition of a disclosable economic interest, the limitation of the requirement in subdivision (c) to the quarter and year of acquisition and the restriction of its application to an unofficial group or committee that claims to represent any entity other than its members;
- revision of subdivision (d) to require the filing of supplemental statements only when a covered entity, group, or committee is taking a position before the court or solicits votes on a plan, and any fact disclosed in its most recently filed statement has changed materially;
- revision of subdivision (e) to limit the scope of this sanctions provision to failures to comply with the provisions of Rule 2019 and to eliminate the enumeration of materials the court may examine in making a determination of noncompliance; and
- the addition of a sentence to the Committee Note stating that the rule does not affect the right to obtain information by means of discovery or as ordered by the court under authority outside the rule.

Rule 3001 is amended to prescribe in greater detail the supporting information required to accompany certain proofs of claim and, in cases in which the debtor is an individual, the possible consequences of failing to provide the required information. As published, existing subdivision (c) was redesignated as (c)(1), and it included a new provision applicable to a claim based on an open-end or revolving consumer credit agreement. The new clause would have required the proof of claim to be accompanied by the last account statement sent to the debtor prior to the filing of the bankruptcy petition. Based on the testimony and comments that were submitted, the Committee voted to withdraw that proposed provision. In its place, the Committee recommends approval for publication of a new subdivision (c)(3), which is discussed below in section II B of this report.

New subdivision (c)(2) requires additional information to be filed with a proof of claim in a case in which the debtor is an individual. This additional information includes an itemization of interest, fees, expenses, and other charges incurred prior to the petition and included in a claim; a statement of the amount necessary to cure any prepetition default on a claim secured by a security interest in the debtor's property; and, for a claim secured by a security interest in the debtor's principal residence, an escrow account statement as of the petition date if an escrow account has been established. Subdivision (c)(2) also authorizes the imposition of sanctions on a creditor who fails to provide the information required by this subdivision.

The Committee received numerous comments and testimony favoring and opposing the published version of Rule 3001(c)(2) – both as applied to credit card and other unsecured claims and as applied to home mortgage claims. They are summarized below.

Requirement in subparagraph (A) for itemized statement of interest, fees, expenses, or charges. Most of the comments concerning this provision related to unsecured claims, particularly those based on credit card debt. Despite the current and longstanding requirement of the proof of claim form that an “itemized statement of interest or charges” be attached if the “claim includes interest or other charges in addition to the principal amount of claim,” commentators opposing this

proposed rule provision asserted that it is often impossible to break out the components of credit card debt because, depending upon the terms of the applicable credit agreement, unpaid interest and fees may be folded into the principal balance. They further contended that in most bankruptcy cases the debtor has no need for this information. While they acknowledged that mortgage lenders may have a history of including inflated or unnecessary fees and charges in their claims, they argued that this problem does not generally exist with respect to unsecured credit card claims.

Two comments addressed this requirement as it applies to mortgage claims. Attorney John Cannizzaro suggested that this provision should require more detail. He proposed that the following sentence be added to subparagraph (A): "The itemized statement shall include evidence of the expenditure, the identity of the entity to whom the payment was made and the reason for the expenditure." The other comment was submitted by Judge Marvin Isgur, and it is discussed below in connection with subparagraph (B).

Requirement in subparagraph (B) for a statement of the amount necessary to cure any default as of the date of the petition. Three comments addressed this requirement. The written comment submitted on behalf of the American Bankers Association, the Financial Services Roundtable, and the Mortgage Bankers Association raised two objections to this requirement. First, it noted that in the case of a judgment lien, the cure amount would be the entire indebtedness. Second, it questioned the need for the inclusion of this requirement in the rule since the proof of claim form already requires this information to be provided.

Another comment on this subparagraph was submitted by Bankruptcy Judge Marvin Isgur of the Southern District of Texas in his written comments. While supporting the purpose behind this provision and subparagraph (A), Judge Isgur questioned the effectiveness of the two provisions in addressing the problems that he has encountered with home mortgage proofs of claim. He said that a full loan history, which provides more detailed information about the assessment of fees, expenses, charges, and the application of payments, is needed. Judge Isgur expressed particular concern that, without the submission of a full loan history, it may not be evident when payments were actually made by the debtor (as opposed to the months for which payments were applied by the mortgagee). He advocated the use of a form similar to the local form that has been adopted by his district.

The National Association of Consumer Bankruptcy Attorneys also urged that a complete loan history be required. It stated that "[w]ithout such documents, a trustee cannot know how much of the amount claimed is for penalties, such as late charges and overbalance fees, that are classified differently in bankruptcy."

Requirement in subparagraph (C) for an escrow account statement. Three comments specifically addressed this provision. First, the written comment of the American Bankers Association, the Financial Services Roundtable, and the Mortgage Bankers Association noted that an escrow statement is already required to be provided by local rules in many jurisdictions. The comment expressed the need for a uniform national form to provide this information and suggested that the proposal be withdrawn until such a form is developed.

Second, chapter 13 trustee Debra Miller, on behalf of the National Association of Chapter Thirteen Trustees' Mortgage Liaison Committee, raised concerns about this provision. She explained that some smaller servicers lack the capacity to run an escrow analysis as of a particular date (such as the date of the filing of the petition).

Finally, Judge Isgur, in both his testimony on December 22, 2009, and his written comments, raised a concern about subparagraph (C). He stated that the requirement of an escrow account statement prepared as of the date of the petition and in a form consistent with applicable nonbankruptcy law might conflict with the Fifth Circuit's decision in *Campbell v. Countrywide Home Loans, Inc.*, 545 F.3d 348 (2008). He described that decision as holding that the prepetition arrearage includes all amounts that the home mortgage lender could have demanded be paid into an escrow account prior to the petition date. He was concerned that an escrow account statement prepared according to applicable nonbankruptcy law would result in a smaller prepetition escrow arrearage, which could be cured over the life of the plan, and would lead to a larger postpetition escrow adjustment, which would have to be paid as part of the debtor's ongoing mortgage payments.

Sanctions under subparagraph (D). This is the part of proposed Rule 3001(c)(2) that attracted the most attention and opposition. Several of the comments submitted by persons other than members of the consumer bankruptcy bar raised concerns about this provision. The overall theme of these comments was that the proposed sanctions are overly harsh, are inconsistent with the Code, exceed the authority under the Rules Enabling Act, and are attempting to address a problem that has not been shown to exist. The sanctions in proposed Rule 3001(c)(2)(D) can be imposed on all types of claimants in cases of individual debtors, and the comments generally did not distinguish between the impact of the provision on inadequately documented home mortgage proofs of claim and on unsecured or other types of secured claims.

The most detailed critique of this provision was submitted by Professor Bernadette Bolla Genetin of the University of Akron School of Law. She argued that the provision sweeps too broadly and that by requiring the attachment of additional supporting documentation in every case, even when there is no demonstrated need for the information, the proposed amendments to Rule 3001(c), including its sanction provision, would abridge creditors' substantive rights in violation of the Rules Enabling Act. Viewing the sanction in subparagraph (D) as being tantamount to claim disallowance, she contended that it is inconsistent with § 502 of the Code, as well as disproportionate to the violation in most cases.

Representatives Lamar Smith (ranking minority member of the House Judiciary Committee) and James Langevin of Rhode Island also expressed concerns about the sanctions, focusing primarily on the impact of the rule on unsecured creditors. Both Congressmen questioned whether there was evidence of a significant problem of unsupported claims being filed in consumer cases, and Rep. Smith noted the potential for litigation over compliance and the imposition of new sanctions and attorney's fees for failure to abide by the requirements. He further questioned the authority to provide for the disallowance of claims for failure to comply with the requirements of a rule, as opposed to the grounds for disallowance listed in § 502(b) of the Code.

Likewise, attorney Patti H. Bass contended that subparagraph (D) in effect provides a new basis for the disallowance of a claim, one that is not authorized by the Code. She argued that the provision is therefore in conflict with the Supreme Court's decision in *Travelers Casualty & Surety Co. v. Pacific Gas & Electric Co.*, 549 U.S. 443 (2007), which holds that the grounds for disallowance are limited to the ones statutorily specified. She further submitted that the sanction provision would create an incentive for debtors to refrain from scheduling debts that they know they owe if they believe that the creditor lacks all of the documentation that would be required under the rule. The debtor would just object to the creditor's insufficiently supported proof of claim, and the creditor would be prevented by the sanction provision from presenting its proof of the validity of the claim in response to the objection.

The comment of John McMickle on behalf of the Housing Policy Council, Financial Services Roundtable, American Bankers Association, and the Mortgage Bankers Association argued that the sanction provision "runs afoul of the Rules Enabling Act by 'modifying' and 'diminishing' a mortgage servicer's statutory right to rely on a presumption of validity for timely-filed proofs of claim." The comment made by Philip Corwin on behalf of several of the same organizations was similar.

Finally, the Insolvency Law Committee of the Business Law Section of the California State Bar commented that the proposed sanctions are too harsh. This group suggested that instead of precluding the creditor from using any omitted information to prove its claim, an insufficiently supported proof of claim should be temporarily disallowed and the claimant should be given an opportunity to provide the missing documentation.

On the other side of the issue, numerous comments filed by consumer bankruptcy lawyers and trustees strongly supported the proposed amendments. They recounted their frustrating experiences in dealing with bare proofs of claim filed by bulk purchasers of credit card debt. They said that claims often failed to comply with existing documentation requirements and that it was impossible to determine how the claim amounts were calculated. Furthermore, they argued, when additional information was sought, claimants frequently failed to respond until an objection was filed, at which point they either withdrew their claims or belatedly provided information that should have been attached to the proof of claim.

Consumer lawyers also expressed frustration with the failure of mortgage claimants to comply with the existing rule requirements and noted their gratitude for the Committee's efforts to address the problems. Representatives John Conyers, Jr., (chair of the House Judiciary Committee) and Steve Cohen (chair of the Subcommittee on Commercial and Administrative Law) submitted a comment that expressed the need for "more enforcement tools" to "polic[e] creditor abuses in consumer bankruptcy cases." They noted testimony given at a congressional hearing that asserted that the filing of false proofs of claim in bankruptcy cases had led families to lose their homes.

Debtors' lawyers explained the disincentives to challenging inadequately documented claims. Debtor's counsel often receives no additional compensation for the effort, and any money freed up

from payment to the creditor whose claim is challenged goes to other unsecured creditors. In some cases, they said, the cost of objecting would exceed the payment that would be made to the creditor. Nevertheless, some lawyers or trustees said that, when they had pursued challenges to claims filed by bulk purchasers of credit card claims, they had discovered claims that were time-barred, filed against the wrong debtor, or excessive in amount.

Supporters of the amendments applauded the proposal to provide sanctions for the failure of claimants to comply with the rules. They noted the burdens the Bankruptcy Code and Rules place on debtors seeking bankruptcy relief and expressed the view that bulk purchasers should not be free to ignore rule requirements based on assertions that compliance would be unduly burdensome. Some members of the consumer bar advocated strengthening the proposed requirements and sanctions.

The Committee carefully considered all of the comments and testimony regarding Rule 3001(c)(2), and it engaged in extensive discussion of the sanction provision. Following its deliberations, the Committee voted to recommend final approval of the provision, with the following changes made to the published draft of subdivision (c)(2):

- Subparagraph (C) was revised to refer to the official form that is being proposed as a required attachment for a proof of claim filed by a creditor with a security interest in the debtor's principal residence. The Committee is recommending that form (Official Form 10 (Attachment A)) for publication for comment in August 2010.
- In subparagraph (D), the sanction provision was revised to eliminate the phrase "shall be precluded," and to provide that the court "may, after notice and hearing, take either or both" of the listed actions.
- The term "security interest" was added to the discussion in the Committee Note of subdivision (c)(2)(B) to underscore that the requirement of a statement of the amount required to cure a prepetition default applies only to consensual liens, and not to judgment liens.
- The discussion in the Committee Note of subparagraph (D) was expanded. As revised, it states that grounds for disallowance of a claim are governed by § 502(b) of the Code and that inadequate documentation of a proof of claim, by itself, is not a basis for disallowance. The Committee Note now also points out that the court retains discretion to allow an amendment to a proof of claim under appropriate circumstances and to impose a sanction different from or in addition to the preclusion of the introduction of evidence.
- Stylistic changes were made to the provision.

Rule 3002.1 is new. It assists in the implementation of § 1322(b)(5) of the Bankruptcy Code, which permits a chapter 13 debtor to cure a default and maintain payments of a home mortgage over the course of the debtor's plan. As published, subdivision (a) required the holder of a claim secured by a security interest in the debtor's principal residence to provide at least 30 days' notice to the debtor, debtor's counsel, and the trustee of any postpetition changes in the mortgage payment amount. Subdivision (b) prescribed the procedure for giving that notice. Subdivision (c) required

the holder of a home mortgage claim to give an itemized notice of any postpetition fees, expenses, or charges within 180 days after they are incurred, and it allowed the debtor or trustee to challenge those additional charges within a year after notice is given.

Subdivisions (d)-(f) established a procedure for determining whether the debtor has cured any default and is otherwise current on the debtor's mortgage payments at the close of a chapter 13 case. Subdivision (g) specified sanctions that could be imposed if the holder of a claim secured by the debtor's principal residence failed to provide any of the information required by this rule.

The Committee received approximately 100 written comments on the published rule, and three witnesses testified concerning it. About three-fourths of the comments were submitted by members of the consumer bankruptcy bar in support of the rule. Several of those commentators described the difficulty they have encountered with the misapplication of payments during the pendency of a chapter 13 case and the lack of information about postpetition mortgage payment changes and the assessment of charges. Attorney Annabelle Patterson, for example, stated that she has had clients successfully emerge from chapter 13, believing that they were current on their mortgage payments, only to be immediately confronted with a notice of delinquency.

None of the comments or testimony opposed the rule in its entirety, but some suggested the need for revision of certain of its provisions. The most significant of these comments are briefly summarized below by category.

Timing of notice of payment changes. Three comments raised questions about the proposed requirement of published subdivision (a) that a mortgagee file a notice of payment change "no later than 30 days before a payment at the new amount is due." They expressed concerns about how this provision would apply to loan payments that adjust frequently. One comment suggested that to be consistent with the Truth in Lending Act's notice requirement for adjustable rate mortgages, the notice required by the rule should be given "at least 25, but no more than 120, calendar days prior to the due date of the new payment amount."

Filing of notice of payment changes. The comments reflected a division of opinion within the court system about the requirement that the notice of payment change be filed as a supplement to the proof of claim (i.e. on the claims register), rather than on the case docket. A comment submitted on behalf of the Bankruptcy Judges Advisory Group supported the rule's provision for the filing of the notice as a supplement to the proof of claim, which filing can be made by a creditor without the assistance of a lawyer. Another comment, however, indicated that a majority of bankruptcy clerks prefer that payment change notices be filed on the case docket.

Timing of notice of fees, expenses, and charges and of motion for court determination of validity. Three comments expressed concern about the requirements of subdivision (c) of the published rule that the mortgagee serve a notice of fees, expenses, and charges "no later than 180 days after the date when the fees, expenses, or charges are incurred" or that the debtor or trustee file a motion "no later than one year after service of the notice" to obtain a court determination of the

validity of the fees, expenses, and charges. Testifying at the New York hearing, attorney Philip Corwin stated that compliance with the 180-day requirement may not be feasible in a significant number of cases. His later-submitted written comments did not elaborate on this assertion. The comment submitted by John McMickle on behalf of the Housing Policy Council and other groups suggested without explanation that the 180-day provision be changed to one year and that the provision for filing a motion to seek a judicial determination be changed from one year to 90 days. Finally, Bankruptcy Judge Howard R. Tallman of the District of Colorado stated that the 180-day notice requirement could result in unnecessary supplementation in chapter 13 cases that are never successfully completed. He also noted that both debtors' and creditors' lawyers in his district expressed concern about the costly prospect of annual litigation over potentially small amounts of fees and charges.

Procedure for determining the status of the debtor's payments at the end of the case. Several comments raised issues about the procedure provided in subdivisions (d) - (f) of the published rule regarding the debtor's successful cure of any default and completion of all payments due after the petition. One concern related to the timing of the notice provision. Marie-Ann Greenberg, a standing trustee in the District of New Jersey, pointed out that mortgage defaults, especially when the amounts are relatively small, are sometimes cured early in the case. In such cases the procedure specified in subdivisions (d) - (f) would not result in a determination upon the conclusion of the case that the debtor was current on all payments. Two other comments expressed similar concerns.

Another issue was raised by Bankruptcy Judge Marvin Isgur of the Southern District of Texas in his written comments. He suggested that, in place of the proposed procedure, the rule should authorize a motion at the end of the case for a determination that the debtor is current on all ongoing mortgage payments and has paid all arrearages. The court's ruling on this motion would have a preclusive effect on both parties. Thus if the mortgage were determined to be current at the end of the case, the mortgagee would be precluded from declaring a default and initiating foreclosure proceedings in state court once the bankruptcy case was closed.

Appropriateness of the rule in all districts. Several comments suggested that proposed Rule 3002.1 is designed for or is appropriate only in so-called "conduit" districts – those in which the chapter 13 trustee disburses all mortgage payments – as opposed to districts in which the debtor makes ongoing mortgage payments directly to the mortgagee. These comments were based on the provisions of the rule that require notices to be filed on the claims register and service to be made on the trustee (as well as on the debtor and debtor's counsel).

The Committee made several changes to the published Rule 3002.1 in response to the comments and testimony it received:

- As a result of an organizational revision of the rule, the subdivision designations were changed.
- The timing of the notice of payment change, now addressed by subdivision (b), was changed from 30 to 21 days before payment must be made in the new amount.

- The triggering event for the filing of the notice of final cure payment, now addressed by subdivision (f), was changed to the debtor's completion of all payments required under the plan. The subdivision now requires the notice to inform the holder of the mortgage claim of its obligation to file and serve a response under subdivision (g).
- The provision governing the consequences of the failure to provide information as required by the rule, now subdivision (i), was revised in the same manner as the sanction provision of Rule 3001(c)(2)(D).
- A sentence was added to the first paragraph of the Committee Note that clarifies that the rule applies in all districts, regardless of whether ongoing mortgage payments are made directly by the debtor or by the chapter 13 trustee.
- Stylistic changes were made throughout the rule and Committee Note.

With these changes made to the preliminary draft of Rule 3002.1, the Committee unanimously recommends that it be given final approval.

Rule 4004 is amended to permit a party under limited circumstances to seek an extension of time to object to a debtor's discharge after the time for objecting has expired. In some cases the discharge is not entered immediately after the objection deadline passes. That situation creates the possibility during the resulting gap period – between the expiration of the time for objecting and the entry of a discharge – that a party may discover information that would have provided a basis for objecting had it been known in time to object. Even when the discharge is later entered, revocation of the discharge under § 727(d) may not be available based the information acquired in the gap period, because some grounds for revocation require the complaining party to have learned of the debtor's misconduct *after* the entry of the discharge. Subdivision (b) of the Rule is amended to allow a party in that circumstance to file a motion for extension of time to object to the debtor's discharge even though the objection period under subdivision (a) has already expired.

Three comments were submitted on the proposed amendment. The Insolvency Law Committee of the Business Law Section of the State Bar of California ("ILC") supported the proposed changes. In particular, it approved the proposed rule's reference to § 727(d) as a whole, rather than to any specific paragraph within that subsection. The broader reference, ILC said, allows an extension of time to be sought whenever the debtor commits an act during the gap period that provides a basis for both denial and revocation of the discharge, even if the ground for revocation does not require lack of knowledge of the debtor's misconduct prior to the discharge. The ILC noted approvingly that the amended rule would allow a creditor or trustee to seek an extension of time to object to discharge upon learning of the misconduct, rather than having to wait until the discharge was granted to seek its revocation. It suggested that the Committee Note be amended to clarify the rule's applicability in that situation.

Bankruptcy Judge Wesley Steen of the Southern District of Texas suggested that the proposed amendment does not go far enough. He expressed concern that it fails to address the situation in which a debtor during the gap period engages in conduct of a type that would provide

a basis for denial of the discharge under § 727(a) but that is not a ground for revocation of the discharge under § 727(d). In a recent opinion that he attached to his comment, *In re Shankman*, 2009 WL 2855731 (Bankr. S.D. Tex. Sept. 1, 2009), Judge Steen found that Rule 4004 is invalid because it imposes a deadline that prevents parties from objecting to discharge based on misconduct by the debtor that occurs during the gap period. The proposed amendment, he said, does not fully address this problem because it is limited to conduct that would provide a basis for discharge revocation, and § 727(a) and (d) are not coextensive.

Bankruptcy Judge Marvin Isgur, also of the Southern District of Texas, concurred in Judge Steen's comment. While stating that the proposed amendment "is an excellent change to this Rule," Judge Isgur suggested that the language of the amendment be broadened to address the concerns raised in the *Shankman* opinion.

The Committee voted unanimously to approve the rule amendment as published, with only stylistic changes to the rule itself and a clarifying change to the Committee Note. The Committee decided that the purpose of the amendment is to arrive at the same result as would occur if the discharge were entered promptly after the expiration of the Rule 4004(a) deadline and thus no gap existed. In that situation, § 727(d) would determine whether acts committed or discovered after the discharge would provide a basis for revocation, and not all acts that might have resulted in denial of the discharge would qualify as grounds for revocation. A sentence was added to the Committee Note to clarify that the amended rule authorizes an extension of time to object to discharge whenever a debtor commits an act during the gap period that provides a basis for both denial and revocation of the discharge.

Rule 6003 is amended to clarify that the 21-day waiting period before a court can enter certain orders at the beginning of a case, including an order approving employment of counsel, does not prevent the court from specifying in the order that it is effective as of an earlier date.

No comments were submitted on the proposed rule in response to the August 2009 publication, and only stylistic changes to the Committee Note were made after publication. The Committee voted unanimously to approve it.

Official Forms 22A, 22B, and 22C are amended in several respects. Form 22A is amended on lines 19A, 19B, 20A, and 20B to delete references to "household" and "household size" and to replace them with "number of persons" or "family size." These amendments implement more accurately the provisions of § 707(b)(2)(A)(ii)(I) of the Bankruptcy Code that allow means test deductions to be taken from current monthly income based on IRS National and Local Standards. Similar changes are made to Form 22C on lines 24A, 24B, 25A, and 25B.

Form 22A is also amended to add an instruction to line 8 to clarify that only one joint filer should report regular payments by another person for household expenses. Reporting of this figure by both spouses results in an erroneous double-counting of this source of income. Forms 22B and 22C are similarly amended on line 7 of each form.

Finally, the introductory instruction to Part I of Form 22A is amended to reflect the Bankruptcy Code's ambiguities regarding application of means test exemptions in joint cases in which only one debtor is exempt. The amended instructions give debtors the choice of filing separate forms if they believe they are required to do so by § 707(b)(2)(C) of the Bankruptcy Code. The amendment therefore follows the Committee's general policy regarding the means test forms – allowing courts to resolve ambiguities rather than determining the outcome in forms.

The only comment that was submitted in response to the publication of these proposed amendments expressed support for them. The commentator, attorney William J. Neild, also suggested the need for an additional change to Form 22A. That suggestion will be considered by the Committee at its fall 2010 meeting.

No changes were made to the forms after publication, and the Committee voted unanimously to recommend their approval

2. *Amendments for Which Final Approval is Sought Without Publication.* **The Advisory Committee recommends that the proposed amendments that are summarized below be approved and forwarded to the Judicial Conference.** Because the proposed amendments are conforming in nature, the Committee concluded that publication for comment is not required. The texts of the amended forms are set out in Appendix A.

Official Forms 20A and 20B are amended to change their captions in two respects. First, the forms instruct the filer to list all names used by the debtor in the last eight, rather than six, years. This change conforms to a 2005 amendment of § 727(a)(8) of the Bankruptcy Code that extended the period between chapter 7 discharges from six to eight years. Second, the filer is instructed to redact not only the debtor's social security number, but also the debtor's individual taxpayer identification number. The latter change conforms to Rule 9037.

The Committee voted unanimously to recommend approval of these amendments without publication.

B. Items for Publication in August 2010

The Advisory Committee recommends that the proposed amendments and new forms that are summarized below be published for public comment. The texts of the amended rules and official forms and the new official forms are set out in Appendix B.

Rule 3001 is amended to provide, in new subdivision (c)(3), requirements for the documentation of claims based on an open-end or revolving consumer credit agreement. Subdivision (c)(1) requires the attachment to a proof of claim of the writing, if any, on which a claim or an interest in property is based. That provision is amended to create an exception for claims governed by paragraph (3) of the subdivision. New paragraph (3) requires for an open-end or revolving consumer credit claim that a statement be filed with the proof of claim that provides the

information specified in that provision. This information may be needed by the debtor to associate the claim with a known account, since claims of this type – primarily for credit card debts – are frequently sold one or more times before ending up in the hands of the claim filer, which may be an entity unknown to the debtor. The required information will also provide a basis for assessing the timeliness of the claim.

As published in August 2009, a proposed amendment to Rule 3001(c) would have required the holder of a claim based on an open-end or revolving consumer credit agreement to attach to its proof of claim the last account statement sent to the debtor prior to the commencement of the bankruptcy case. Representatives of bulk purchasers of credit card debt objected on several grounds to this requirement. Their arguments included the assertion that the statement will often not be available when the proof of claim is filed. They said that under federal record retention policies for financial institutions, credit card account records generally need to be retained for only two years. Furthermore, they asserted, account information is usually stored in an electronic format, and it may not be practicable to produce a duplicate of an account statement.

The proposal for the attachment of the last account statement for credit card claims arose from a concern that the requirement for the attachment of the writing on which a claim is based is frequently not complied with by holders of credit card debt. When little supporting information is provided with a proof of claim, the burden is placed on a debtor or trustee to seek, through informal means or by discovery, information that Rule 3001(c) or Form 10 requires the claimant to provide in support of its claim. The Committee concluded, however, that the rule should not require the attachment of information that is frequently unavailable or impracticable to obtain. Likewise, it concluded that if there is a less burdensome way for a creditor to provide the information needed to assess the validity of its claim, the rule should not insist on the provision of that information in a more costly or difficult manner.

The Committee therefore voted to withdraw the proposal for the attachment of the last account statement and in its place to recommend for publication new subdivision (c)(3). That provision requires a statement of the following information, to the extent applicable: (1) the name of the entity from whom the creditor purchased the account; (2) the name of the entity to whom the debt was owed at the time of the last transaction on the account by an account holder; (3) the date of the last transaction on the account by an account holder; (4) the date of the last payment on the account; and (5) the date on which the account was charged to profit and loss. In addition to this information, which must be routinely provided, a party in interest may obtain the writing on which an open-end or revolving consumer credit claim is based by making a request in writing for that documentation from the holder of the claim.

Rule 7054 is amended in subdivision (b) to provide more time for a party to respond to a prevailing party's bill of costs and to increase the time for seeking review of the clerk's taxing of costs. The existing rule provides for the taxing of costs on one day's notice. That time period is extended to 14 days in order to provide a more realistic opportunity for a party to prepare a response. The five-day period for seeking court review is changed to seven days to conform to the convention

used throughout the rules of specifying time periods of fewer than 30 days as multiples of seven. These changes bring the rule into conformity with Civil Rule 54(d).

Rule 7056 is amended to alter the incorporated Civil Rule 56's default deadline for filing a motion for summary judgment. Rule 7056 makes Civil Rule 56 applicable in bankruptcy adversary proceedings. As of December 1, 2009, Civil Rule 56(c) provides that, unless a local rule or court order otherwise provides, the deadline for filing a motion for summary judgment is 30 days after the close of discovery. Because of the swift pace of some bankruptcy proceedings and contested matters (to which Rule 7056 applies by virtue of Rule 9014(c)), a default deadline based on the scheduled hearing date, rather than the close of discovery, is adopted.

Official Form 10, the proof of claim form, is amended in several respects:

(1) Additional information is sought concerning the interest rate specified for secured claims. The filer of the claim must indicate whether the rate is fixed or variable, and the form clarifies that the rate in question is the one applicable when the bankruptcy case was filed.

(2) Part 7 of the form and related instructions are revised to clarify that, consistent with Rule 3001(c), a filer must attach redacted copies of documents that support a claim or provide evidence of the perfection of a lien; the attachment of only a summary of those documents is not sufficient. The need for the redaction of documents is highlighted.

(3) In order to emphasize the duty imposed on a party filing a proof of claim, the signature box of the form now includes a declaration that the information provided is true and correct to the best of the filer's knowledge, information, and reasonable belief. The related instruction also reminds the filer that the signature constitutes a certification that the claim meets the requirements of Rule 9011(b). An individual filing a claim must indicate the capacity in which he or she is doing so, and check boxes are added to the signature block for that purpose.

(4) A new space is provided for indicating a uniform claim identifier. The use of this 24-character identifier is optional for the claim filer and is intended to facilitate the making of chapter 13 disbursements by means of electronic fund transfers.

(5) Stylistic and formatting changes are made throughout the form.

Official Form 10 (Attachment A) is new. It is a required proof of claim attachment for home mortgage claims that implements Rule 3001(c)(2). The form provides a uniform format for setting forth the following components of the amount of a mortgage claim: principal, interest, fees, expenses, and charges owed as of the petition date. It also requires the filer to state the amount necessary to cure any prepetition default, break out the components of that amount, and attach an escrow account statement if the mortgage installment payment includes an escrow deposit.

Official Form 10 (Supplement 1) is new. It implements Rule 3002.1(b). The filer of a claim secured by a security interest in the debtor's principal residence must use this form during the course of a chapter 13 case to provide notice of changes in the ongoing installment payment amount. This notice will allow a debtor to properly maintain mortgage payments while in bankruptcy as permitted by § 1322(b)(5) of the Bankruptcy Code.

Official Form 10 (Supplement 2) is new. It implements Rule 3002.1(c) by providing a uniform format for the filer of a claim secured by a security interest in the debtor's principal residence to provide notice of fees, expenses, and charges that are incurred during the course of a chapter 13 case.

Form 25A, a model plan of reorganization for small businesses, is amended to change the effective date provision. On December 1, 2009, the concurrent periods for filing a notice of appeal and for the automatic stay of an order of confirmation were changed from 10 to 14 days. The effective date of the plan is therefore changed to the first business day following the expiration of those 14 days, unless the stay remains in effect on that date. In the latter case, the effective date is the first business day after the stay expires or is terminated, so long as the confirmation order has not been vacated.

III. Information Items

The draft minutes of the April 29-30, 2010, Committee meeting are attached as Appendix C.

A. Revision of the Bankruptcy Appellate Rules

The Advisory Committee is proceeding with its consideration of a comprehensive revision of the bankruptcy appellate rules (Part VIII of the Bankruptcy Rules). At its spring meeting, the Committee endorsed the following goals for the revision:

- Make the bankruptcy appellate rules easier to read and understand by adopting the clearer and more accessible style of the Federal Rules of Appellate Procedure (FRAP).
- Incorporate into the Part VIII rules useful FRAP provisions that currently are unavailable for bankruptcy appeals.
- Retain distinctive features of the Part VIII rules that address unique aspects of bankruptcy appeals or that have proven to be useful in that context.
- Clarify existing Part VIII rules that have caused uncertainty for courts or practitioners or that have produced differing judicial interpretations.
- Modernize the Part VIII rules to take advantage of existing technology – such as the electronic filing and storage of documents – while also allowing for future technological advancements.

With the benefit of valuable input from users of the existing Part VIII rules obtained at special meetings held in March and September 2009, the Advisory Committee will begin its consideration of a draft of a revised Part VIII at its fall 2010 meeting. The Committee hopes to hold its spring 2011 meeting in conjunction with the meeting of the Advisory Committee on Appellate Rules so that the committees can together consider the proposed revisions.

B. Forms Modernization Project

The Forms Subcommittee of the Advisory Committee continues its multi-year Forms Modernization Project, which was initiated to develop recommendations for making the bankruptcy forms more user-friendly and less error-prone and taking better advantage of modern information technology.

With the help of an expert in forms redesign, the project has made significant progress in reformatting and rephrasing the questions in an initial filing package of forms to be used by individual debtors in bankruptcy. At its January 2010 meeting, the project approved initial drafts of a revised petition for individuals, property schedules, the debtor's social-security statement, and the debtor's statement about a rented residence subject to a judgment of possession. Project subgroups are in the process of revising other forms to be used by individuals in an initial filing package, and will move on to forms for businesses when the package for individuals is complete.

The Forms Modernization Project continues to solicit feedback from users of the forms (bankruptcy judges, attorneys, court and clerk's office employees, the Executive Office for United States Trustees, and academics) both through electronic surveys and other questionnaires, and through its presentations at the clerks' operations forum and the FJC's National Workshop for Bankruptcy Judges and Conference for Chief Bankruptcy Judges.

The project also continues to work with the NextGen CM/ECF Project to promote functional requirements it believes should be included in the future version of CM/ECF. Those functional requirements include the ability to store information in data form and retrieve the data in user-specified reports. Significant numbers of judicial users have identified court needs for such capabilities. The requirements also include capacity to control users' access to data, to ensure that CM/ECF will continue to operate in conformity with Judicial Conference privacy and access policies.

C. New Committee Members

Circuit Judge Sandra Segal Ikuta of the Ninth Circuit and Bankruptcy Judge Arthur I. Harris of the Northern District of Ohio are the newest members of the Advisory Committee. Judge Ikuta, Judge Harris, and District Judge Karen K. Caldwell of the Eastern District of Kentucky (who was appointed in late 2009) replaced Circuit Judge R. Guy Cole, Jr., of the Sixth Circuit, Bankruptcy Judge Jeffery P. Hopkins of the Southern District of Ohio and District Judge Richard A. Schell of the Eastern District of Texas, respectively.

Appendix A

**PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY
PROCEDURE***

For Final Approval and Transmittal to the Judicial Conference

Rule 1004.2. Petition in Chapter 15 Cases**

- 1 (a) DESIGNATING CENTER OF MAIN INTERESTS. A
2 petition for recognition of a foreign proceeding under chapter 15 of
3 the Code shall state the country where the debtor has its center of
4 main interests. The petition shall also identify each country in
5 which a foreign proceeding by, regarding, or against the debtor is
6 pending.
- 7 (b) CHALLENGING DESIGNATION. The United States
8 trustee or a party in interest may file a motion for a determination
9 that the debtor's center of main interests is other than as stated in
10 the petition for recognition commencing the chapter 15 case.
11 Unless the court orders otherwise, the motion shall be filed no later
12 than seven days before the date set for the hearing on the petition.
13 The motion shall be transmitted to the United States trustee and
14 served on the debtor, all persons or bodies authorized to administer
-

* New material is underlined; matter to be omitted is lined through.

** In addition to the adoption of Rule 1004.2, Official Form 1 would be amended to include a line on the form where the foreign representative indicates the country of the debtor's center of main interests. The Official Form would also be amended to include a line or lines on which the filer would set out the countries in which cases are pending.

15 foreign proceedings of the debtor, all entities against whom
16 provisional relief is being sought under § 1519 of the Code, all
17 parties to litigation pending in the United States in which the
18 debtor was a party as of the time the petition was filed, and such
19 other entities as the court may direct.

COMMITTEE NOTE

This rule is new. Subdivision (a) directs any entity that files a petition for recognition of a foreign proceeding under chapter 15 of the Code to state in the petition the center of the debtor's main interests. The petition must also list each country in which a foreign proceeding involving the debtor is pending. This information will assist the court and parties in interest in determining whether the foreign proceeding is a foreign main or nonmain proceeding.

Subdivision (b) sets a deadline of seven days prior to the hearing on the petition for recognition for filing a motion challenging the statement in the petition regarding the country in which the debtor's center of main interests is located.

Changes Made After Publication

The rule was first published for comment in August 2008. After publication, the deadline in subdivision (b) for challenging the designation of the center of the debtor's main interests was changed from "60 days after the notice of the petition has been given" to "no later than seven days before the date set for the hearing on the petition."

The rule as revised was published in August 2009. Minor stylistic changes were made to the rule's language and the Committee Note following that publication.

Summary of Public Comment

In response to the August 2008 publication of the rule, three

comments were submitted.

08-BK-002. Una O'Boyle. The deadline for challenging the center of the debtor's main interests is too long and could delay the hearing on the petition.

08-BK-004. Ellie M. Bertwell. The proposed rule does not clearly indicate the date that triggers the commencement of the 60-day notice period, since the event that constitutes "giving" notice is unspecified. The deadline could also extend beyond the date of the hearing on the petition.

08-BK-006. Hon. Samuel L. Bufford (Bankr. C.D. Cal.). The service list should be expanded.

No comments were submitted on proposed Rule 1004.2 after its republication in August 2009.

Rule 2003. Meeting of Creditors or Equity Security Holders

1

* * * * *

2

(e) ADJOURNMENT. The meeting may be adjourned

3

from time to time by announcement at the meeting of the

4

adjourned date and time ~~without further written notice.~~ The

5

presiding official shall promptly file a statement specifying the date

6

and time to which the meeting is adjourned.

* * * * *

COMMITTEE NOTE

Subdivision (e) is amended to require the presiding official to file a statement after the adjournment of a meeting of creditors or equity security holders designating the period of the adjournment. The presiding official is the United States trustee or the United States trustee's designee. This requirement will provide notice to parties in interest not present at the initial

meeting of the date and time to which the meeting has been continued. An adjourned meeting is “held open” as permitted by § 1308(b)(1) of the Code. The filing of this statement will also discourage premature motions to dismiss or convert the case under § 1307(e).

Changes Made After Publication

No changes were made to the language of the rule following publication. The Committee Note was revised to state more explicitly that adjournment of a meeting of creditors to a specific date constitutes holding it open for purposes of § 1308(b) of the Bankruptcy Code.

Summary of Public Comment

09-BK-004. Hon. Marvin Isgur (Bankr. S.D. Tex.). The proposed change will be very helpful, and I fully support the change as written.

09-BK-016. David B. Shaev (National Association of Consumer Bankruptcy Attorneys). NACBA supports the proposed amendment. It will prevent chapter 13 trustees from holding creditors’ meetings open indefinitely to avoid the deadline for filing objections to exemptions. This practice has become abusive and should be limited.

09-BK-139. Deborah A. Butler, Assoc. Chief Counsel (Internal Revenue Service). The proposed amendments should be revised to require the presiding official to specify whether the meeting of the creditors is being held open pursuant to section 1308(b) to allow a taxpayer additional time to file a tax return, or adjourned for some other purpose.

Comments by individual members of the consumer bankruptcy bar, endorsing the proposed amendment:

09-BK-057. Pamela Simmons-Beasley

09-BK-075. Charles Farrell

09-BK-087. Jim Green

09-BK-100. Mark Cornell

09-BK-118. John Francis Murphy

09-BK-121. Stephen M. Goldberg

Rule 2019. Representation of Creditors and Equity Security Holders in Chapter 9 Municipality and Chapter 11 Reorganization Cases

1 ~~—— (a) DATA REQUIRED. In a chapter 9 municipality or~~
2 ~~chapter 11 reorganization case, except with respect to a committee~~
3 ~~appointed pursuant to § 1102 or 1114 of the Code, every entity or~~
4 ~~committee representing more than one creditor or equity security~~
5 ~~holder and, unless otherwise directed by the court, every indenture~~
6 ~~trustee, shall file a verified statement setting forth (1) the name and~~
7 ~~address of the creditor or equity security holder; (2) the nature and~~
8 ~~amount of the claim or interest and the time of acquisition thereof~~
9 ~~unless it is alleged to have been acquired more than one year prior~~
10 ~~to the filing of the petition; (3) a recital of the pertinent facts and~~
11 ~~circumstances in connection with the employment of the entity or~~
12 ~~indenture trustee, and, in the case of a committee, the name or~~
13 ~~names of the entity or entities at whose instance, directly or~~
14 ~~indirectly, the employment was arranged or the committee was~~
15 ~~organized or agreed to act; and (4) with reference to the time of the~~
16 ~~employment of the entity, the organization or formation of the~~
17 ~~committee, or the appearance in the case of any indenture trustee,~~
18 ~~the amounts of claims or interests owned by the entity, the~~
19 ~~members of the committee or the indenture trustee, the times when~~

20 acquired, the amounts paid therefor, and any sales or other
21 disposition thereof. The statement shall include a copy of the
22 instrument, if any, whereby the entity, committee, or indenture
23 trustee is empowered to act on behalf of creditors or equity security
24 holders. A supplemental statement shall be filed promptly, setting
25 forth any material changes in the facts contained in the statement
26 filed pursuant to this subdivision.

27 ~~—— (b) FAILURE TO COMPLY, EFFECT. On motion of any~~
28 ~~party in interest or on its own initiative, the court may (1)~~
29 ~~determine whether there has been a failure to comply with the~~
30 ~~provisions of subdivision (a) of this rule or with any other~~
31 ~~applicable law regulating the activities and personnel of any entity,~~
32 ~~committee, or indenture trustee or any other impropriety in~~
33 ~~connection with any solicitation and, if it so determines, the court~~
34 ~~may refuse to permit that entity, committee, or indenture trustee to~~
35 ~~be heard further or to intervene in the case; (2) examine any~~
36 ~~representation provision of a deposit agreement, proxy, trust~~
37 ~~mortgage, trust indenture, or deed of trust, or committee or other~~
38 ~~authorization, and any claim or interest acquired by any entity or~~
39 ~~committee in contemplation or in the course of a case under the~~
40 ~~Code and grant appropriate relief; and (3) hold invalid any~~
41 ~~authority, acceptance, rejection, or objection given, procured, or~~

42 received by an entity or committee who has not complied with this
43 rule or with § 1125(b) of the Code.

**Rule 2019. Disclosure Regarding Creditors and Equity
Security Holders in Chapter 9 and Chapter 11 Cases**

1 (a) DEFINITIONS. In this rule the following terms have
2 the meanings indicated:

3 (1) “Disclosable economic interest” means any
4 claim, interest, pledge, lien, option, participation, derivative
5 instrument, or any other right or derivative right granting the holder
6 an economic interest that is affected by the value, acquisition, or
7 disposition of a claim or interest.

8 (2) “Represent” or “represents” means to take a
9 position before the court or to solicit votes regarding the
10 confirmation of a plan on behalf of another.

11 (b) DISCLOSURE BY GROUPS, COMMITTEES, AND
12 ENTITIES.

13 (1) In a chapter 9 or 11 case, a verified statement
14 setting forth the information specified in subdivision (c) of this rule
15 shall be filed by every group or committee that consists of or
16 represents, and every entity that represents, multiple creditors or
17 equity security holders that are (A) acting in concert to advance
18 their common interests, and (B) not composed entirely of affiliates

19 or insiders of one another.

20 (2) Unless the court orders otherwise, an entity is
21 not required to file the verified statement described in paragraph
22 (1) of this subdivision solely because of its status as:

23 (A) an indenture trustee;

24 (B) an agent for one or more other entities
25 under an agreement for the extension of credit;

26 (C) a class action representative; or

27 (D) a governmental unit that is not a person.

28 (c) INFORMATION REQUIRED. The verified statement
29 shall include:

30 (1) the pertinent facts and circumstances
31 concerning:

32 (A) with respect to a group or committee,
33 other than a committee appointed under § 1102 or 1114 of the
34 Code, the formation of the group or committee, including the name
35 of each entity at whose instance the group or committee was
36 formed or for whom the group or committee has agreed to act; or

37 (B) with respect to an entity, the
38 employment of the entity, including the name of each creditor or
39 equity security holder at whose instance the employment was
40 arranged;

41 (2) if not disclosed under subdivision (c)(1), with
42 respect to an entity, and with respect to each member of a group or
43 committee:

44 (A) name and address;

45 (B) the nature and amount of each
46 disclosable economic interest held in relation to the debtor as of the
47 date the entity was employed or the group or committee was
48 formed; and

49 (C) with respect to each member of a group
50 or committee that claims to represent any entity in addition to the
51 members of the group or committee, other than a committee
52 appointed under § 1102 or 1114 of the Code, the date of
53 acquisition by quarter and year of each disclosable economic
54 interest, unless acquired more than one year before the petition was
55 filed;

56 (3) if not disclosed under subdivision (c)(1) or
57 (c)(2), with respect to each creditor or equity security holder
58 represented by an entity, group, or committee, other than a
59 committee appointed under § 1102 or 1114 of the Code:

60 (A) name and address; and

61 (B) the nature and amount of each
62 disclosable economic interest held in relation to the debtor as of the

63 date of the statement; and

64 (4) a copy of the instrument, if any, authorizing the
65 entity, group, or committee to act on behalf of creditors or equity
66 security holders.

67 (d) SUPPLEMENTAL STATEMENTS. If any fact
68 disclosed in its most recently filed statement has changed
69 materially, an entity, group, or committee shall file a verified
70 supplemental statement whenever it takes a position before the
71 court or solicits votes on the confirmation of a plan. The
72 supplemental statement shall set forth the material changes in the
73 facts required by subdivision (c) to be disclosed.

74 (e) DETERMINATION OF FAILURE TO COMPLY;
75 SANCTIONS.

76 (1) On motion of any party in interest, or on its own
77 motion, the court may determine whether there has been a failure
78 to comply with any provision of this rule.

79 (2) If the court finds such a failure to comply, it
80 may:

81 (A) refuse to permit the entity, group, or
82 committee to be heard or to intervene in the case;

83 (B) hold invalid any authority, acceptance,
84 rejection, or objection given, procured, or received by the entity,

85 group, or committee; or

86 (C) grant other appropriate relief.

COMMITTEE NOTE

The rule is substantially amended to expand the scope of its coverage and the content of its disclosure requirements. Stylistic and organizational changes are also made in order to provide greater clarity. Because the rule no longer applies only to representatives of creditors and equity security holders, the title of the rule has been changed to reflect its broadened focus on disclosure of financial information in chapter 9 and chapter 11 cases.

The content of subdivision (a) is new. It sets forth two definitions. The first is the definition of the term “disclosable economic interest,” which is used in subdivisions (c)(2) and (c)(3). The definition of the term is intended to be sufficiently broad to cover any economic interest that could affect the legal and strategic positions a stakeholder takes in a chapter 9 or chapter 11 case. A disclosable economic interest extends beyond claims and interests owned by a stakeholder and includes, among other types of holdings, short positions, credit default swaps, and total return swaps.

The second definition is of “represent” or “represents.” The definition provides that representation requires active participation in the case or in a proceeding on behalf of another entity – either by taking a position on a matter before the court or by soliciting votes on the confirmation of a plan. Thus, for example, an attorney who is retained and consulted by a creditor or equity security holder to monitor the case, but who does not advocate any position before the court or engage in solicitation activities on behalf of that client, does not represent the creditor or equity security holder for purposes of this rule.

Subdivision (b)(1) specifies who is covered by the rule’s disclosure requirements. In addition to an entity, group, or committee that *represents* more than one creditor or equity security holder, the amendment extends the rule’s coverage to groups or committees that *consist of* more than one creditor or equity security holder. The rule no longer excludes official committees, except as specifically indicated. The rule applies to a group of creditors or equity security holders that act in concert to advance common interests (except when the group consists exclusively of affiliates or insiders of one another), even if the group does not call itself a committee.

Subdivision (b)(2) excludes certain entities from the rule's coverage. Even though these entities may represent multiple creditors or equity security holders, they do so under formal legal arrangements of trust or contract law that preclude them from acting on the basis of conflicting economic interests. For example, an indenture trustee's responsibilities are defined by the indenture, and individual interests of bondholders would not affect the trustee's representation.

Subdivision (c) sets forth the information that must be included in a verified statement required to be filed under this rule. Subdivision (c)(1) continues to require disclosure concerning the formation of a committee or group, other than an official committee, and the employment of an entity.

Subdivision (c)(2) specifies information that must be disclosed with respect to the entity and each member of the committee and group filing the statement. In the case of a committee or group, the information about the nature and amount of a disclosable economic interest must be specifically provided on a member-by-member basis, and not in the aggregate. The quarter and year in which each disclosable economic interest was acquired by each member of a committee or group (other than an official committee) that claims to represent others must also be specifically provided, except for a disclosable economic interest acquired more than a year before the filing of the petition. Although the rule no longer requires the disclosure of the precise date of acquisition or the amount paid for disclosable economic interests, nothing in this rule precludes either the discovery of that information or its disclosure when ordered by the court pursuant to authority outside this rule.

Subdivision (c)(3) specifies information that must be disclosed with respect to creditors or equity security holders that are represented by an entity, group, or committee. This provision does not apply with respect to those represented by official committees. The information required to be disclosed under subdivision (c)(3) parallels that required to be disclosed under subdivision (c)(2)(A) and (B). The amendment also clarifies that under (c)(3) the nature and amount of each disclosable economic interest of represented creditors and shareholders must be stated as of the date of the verified statement.

Subdivision (c)(4) requires the attachment of any instrument authorizing the filer of the verified statement to act on behalf of creditors or equity security holders.

Subdivision (d) requires the filing of a supplemental statement at the time an entity, group, or committee takes a position before the court or solicits votes on a plan if there has been a material change in any of the information contained in its last filed statement. The supplemental verified statement must set forth the material changes that have occurred regarding the information required to be disclosed by subdivision (c) of this rule.

Subdivision (e) addresses the court's authority to determine whether there has been a violation of this rule and to impose a sanction for any violation. It no longer addresses the court's authority to determine violations of other applicable laws regulating the activities and personnel of an entity, group, or committee.

Changes Made After Publication

Subdivision (a). A definition of "represent" or "represents" was added, and the subdivision was divided into paragraphs (1) and (2).

Subdivision (b). The provision authorizing the court to require disclosure by an entity that seeks or opposes the granting of relief was deleted.

In the paragraph now designated as (1), language was added providing that groups, committees, and entities are covered by the rule only if they consist of or represent multiple creditors or equity security holders "that are (A) acting in concert to advance their common interests, and (B) not composed entirely of affiliates or insiders of one another." The phrase "and, unless the court directs otherwise, every indenture trustee," was deleted.

Subdivision (b)(2) was added to specify entities that are not required to file a verified statement merely because they act in one of the designated capacities.

Subdivision (c). The authorization in subdivision (c)(2)(B) and (c)(3)(B) for the court to require the disclosure of the amount paid for a disclosable economic interest was deleted.

The requirement in subdivision (c)(2)(C) and (c)(3)(C) for disclosure of the acquisition date of each disclosable economic interest was modified. The requirement was made applicable only to members of an unofficial

group or committee that claims to represent any entity in addition to the members of the group or committee, and the date that must be disclosed was limited to the quarter and year of acquisition.

Subdivision (d). The requirement of monthly supplementation of a verified statement was modified to require supplementation whenever a covered group, committee, or entity takes a position before the court or solicits votes on the confirmation of a plan and there has been a material change in any fact disclosed in its most recently filed statement.

Subdivision (e). The provisions published as subdivision (e)(1)(B) and (C), which authorized the court to determine failures to comply with legal requirements other than those imposed by Rule 2019, were deleted.

Subdivision (e)(2), which enumerated the materials the court could examine in making a determination of noncompliance, was deleted.

Committee Note. In the discussion of the definition of “disclosable economic interest,” the specific examples of “short positions, credit default swaps, and total return swaps” were added to illustrate the breadth of the definition. A sentence was added to the discussion of subdivision (c)(2) that states that the rule does not affect the right of a party to obtain information by means of discovery or as ordered by the court under any authority outside the rule.

Other changes. Stylistic and organizational changes were made throughout the rule and Committee Note to reduce the length and clarify the meaning of the published proposal.

Summary of Public Comment

09-BK-010 (testimony), **09-BK-152**. **Thomas E. Lauria**. Rule 2019 should be repealed. The rule chills creditor participation and may violate due process. Furthermore, it applies in a discriminatory fashion to distressed debt investors, who add value to a reorganization case, and it is used tactically by parties. Customized discovery should be used in place of Rule 2019 to identify conflicts.

09-BK-013 (testimony). **09-BK-028**. **Richards, Kibbe & Orbe LLP** (Jon Kibbe and Michael Friedman). We support the proposed amendments to the rule with the exception of the requirement of disclosure of the date of purchase of disclosable economic interests and, upon court order, the

purchase price. Disclosure of the date of purchase is tantamount to disclosure of the purchase price, which information is rarely relevant. Imposing this requirement will discourage the participation of *ad hoc* groups in chapter 11 cases.

09-BK-015 (testimony). The Loan Syndications and Trading Association (“LSTA”) (Elliot Ganz) – LSTA and the Securities Industry and Financial Markets Association (“SIFMA”) no longer advocate the repeal of Rule 2019. The organizations do oppose the amendments to the extent they “would compel public disclosure of an investor’s most confidential and proprietary information: the date and price at which that investor purchased (and/or sold) its bankruptcy claims.” Should a court question the bona fides of a party and desire the disclosure of pricing information, it would have inherent authority to require the party to reveal that information.

09-BK-026. LSTA and SIFMA. Pricing and purchase date disclosures should not be required. The following additional changes to the published proposal should be considered:

- The definition of “disclosable economic interest” should take account of the creation of ethical walls within an organization and should define “derivative” to eliminate the need for disclosure “when an entity’s derivative positions have no material bearing on the entity’s voice in the restructuring process.”
- Agents and affiliated entities should not be subject to disclosure requirements under the rule that apply to entities representing multiple creditors or equity security holders.
- Under (c)(2) the verified statement should provide information as of the date the disclosing entity appeared in the case, rather than when the group or committee was formed or the entity was employed.
- Supplemental statements should be required only when the disclosing entity seeks to participate in matters before the court.
- Subdivision (e) should only refer to the court’s authority to determine failure to comply with Rule 2019, not to other applicable law or improprieties in connection with a solicitation; (e)(2), which refers to the materials the court may examine in making its determination, should be deleted; and the provision regarding the court’s authority to hold

invalid any authority, acceptance, rejection, or objection should be deleted.

09-BK-017. Hon. Kathryn Ferguson (Bankr. D.N.J.). Proposed Rule 2019(d), which requires supplemental statements to be filed “monthly, or as the court otherwise orders,” should be revised. The term “monthly” is ambiguous, and the requirement is unduly burdensome and wasteful.

09-BK-018 (testimony). Angelo, Gordon & Co., LP (Forest Wolfe). Price information and trade data are extremely sensitive and should generally not have to be revealed. The term “group” should not apply to the situation in which various funds are represented by one investment advisor.

09-BK-019 (testimony). Hon. Robert Gerber (Bankr. S.D.N.Y.). I support the proposed amendments. The date of acquisition and price paid for a disclosable economic interest is sometimes relevant, but the rule could still be effective if it required only disclosure of the general period of time in which such an interest was acquired. If the rule were so revised, the Committee Note should state that the court retains authority to order the disclosure of date and price information upon a showing of relevancy or other cause. The definition of “disclosable economic interest” should expressly include short positions, credit default swaps, and total return swaps.

09-BK-020 (testimony). Akin Gump Strauss Hauer & Feld LLP (Abid Qureshi). Price and date information should not have to be disclosed. The price at which an interest was purchased is irrelevant, and these requirements will contribute to the strategic and abusive use of the rule. The Committee should make the rule as clear as possible so that compliance with it becomes routine and motion practice is reduced.

09-BK-024. National Bankruptcy Conference. The Conference supports the proposed rule but suggests that revisions or clarifications are needed to address three aspects of the rule:

- *Disclosure by law firms representing multiple holders of claims or interests.* Disclosure should not be required when two or more clients are not acting in concert to advance a common interest; when affiliated entities are jointly represented; or when the firm does not appear in court on behalf of a client to seek or oppose the granting of relief.
- *Application of the rule to indenture trustees and agent banks.* The rule should be revised to make it clear that indenture

trustees and agent banks are not required to make disclosures under the rule, except, with respect to agents, when they take positions in court.

- *Price and purchase date information.* The rule as proposed appears to authorize a court to require disclosure of price information without any showing of relevance, and even when the disclosure of price information is not required, that information can be determined from the required disclosure of the date of purchase. The rule's authorization for the disclosure of price information should be made applicable only to those who claim to act on behalf of or in the interest of creditors or equity security holders other than themselves.

09-BK-025, 09-BK-104. Martin Bienenstock. Parties covered by Rule 2019 should be allowed to make three certifications in lieu of the verified statement of disclosures. These certifications would address:

- the aggregate dollar amount of prepetition claims held against the debtor and the aggregate dollar amount of such postpetition claims;
- whether the party holds other disclosable economic interests that may increase in value if the debtor's estate declines in value; and
- whether the party holds claims or other disclosable economic interests in an affiliate of the debtor that may increase in value if the debtor's estate declines in value.

Alternatively, any pleading that asserts that a party holds claims against the estate must also disclose whether the party holds any economic interests that may increase in value if claims against any of the debtors' estates or their affiliates' estates decrease in value. Furthermore, the rule should apply to official committees. Finally, any comment in the Committee Note referring to the court's authority to order the disclosure of pricing and acquisition date information should make clear that current standards of materiality and relevance are not being altered, nor are new rights of discovery being created.

09-BK-036. Regiment Capital Advisors LP. We endorse LSTA's comments and oppose the disclosure of pricing and purchase date information.

09-BK-094. Hon. D. Michael Lynn (Bankr. N.D. Tex.). The definition of "disclosable economic interest" should turn on the value of the debtor or its

estate. Disclosure should not be required by members of official committees, and the parties that are permitted to move under subdivision (b) for disclosure by entities that are seeking or opposing relief should be limited. It is unclear whether the rule applies to collective bargaining agents and class action representatives. Subdivision (c)(3) risks being applied too broadly or too narrowly to unofficial committees. Members of official committees should not have to file supplemental statements because doing so might create holes in ethical walls. Making the rule applicable to official committees might intrude on the U.S. trustee's authority.

09-BK-114. Insolvency Law Committee of the Business Law Section of the California State Bar. Subdivision (e) should not authorize the court to determine violations of rules and laws other than Rule 2019. Although current Rule 2019 has similar provisions, these provisions, when read broadly, are constitutionally questionable. The disclosure requirements are overly burdensome, both with respect to the initial disclosures regarding each committee member and monthly supplements. It is not clear what constitutes a group, and the rule should apply to official committee members.

09-BK-116. The Clearing House Association LLC. The rule should clearly provide that it does not require disclosure by an administrative agent of the economic interests of syndicate lenders or its own holdings (merely because it is participating in the case as an agent). Delete the provision in subdivision (b) that authorizes the court to order disclosure by parties in interest that seek or oppose the granting of relief. The rule should not apply to official committees, and the economic interests that must be disclosed should be limited in several respects.

09-BK-127. Prof. Adam Levitin (Georgetown Law School). Do not require the disclosure of purchase price and purchase date information.

09-BK-131. Managed Funds Association. Do not require the disclosure of purchase price and purchase date information.

09-BK-133. State Bar of California Committee on Federal Courts. We endorse the views of the Insolvency Law Committee (09-BK-114). The rule should apply only to an entity, group, or committee that participates in the case as a representative of multiple creditors or equity security holders, as opposed to a standing organization with purposes beyond the scope of the case that participates in other ways (such as by filing an amicus brief). Furthermore, the rule should not apply to separate creditors or equity

security holders that by way of shorthand are referred to by a collective name (such as “the Equipment Lessors”).

09-BK-144. Commercial Finance Association. Clarify that the rule is not intended to apply to an agent for a group of lenders in a syndicated credit facility, to funds represented by the same investment manager, or to affiliated creditors.

Rule 3001. Proof of Claim

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(c) SUPPORTING INFORMATION.

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(1) Claim Based on a Writing. When a claim, or an

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interest in property of the debtor securing the claim, is based on a

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writing, the original or a duplicate shall be filed with the proof of

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claim. If the writing has been lost or destroyed, a statement of the

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circumstances of the loss or destruction shall be filed with the

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claim.

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(2) Additional Requirements in an Individual

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Debtor Case; Sanctions for Failure to Comply. In a case in which

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the debtor is an individual:

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(A) If, in addition to its principal amount, a

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claim includes interest, fees, expenses, or other charges incurred

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before the petition was filed, an itemized statement of the interest,

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fees, expenses, or charges shall be filed with the proof of claim.

16 (B) If a security interest is claimed in the
17 debtor's property, a statement of the amount necessary to cure any
18 default as of the date of the petition shall be filed with the proof of
19 claim.

20 (C) If a security interest is claimed in property
21 that is the debtor's principal residence, the attachment prescribed by
22 the appropriate Official Form shall be filed with the proof of claim. If
23 an escrow account has been established in connection with the claim,
24 an escrow account statement prepared as of the date the petition was
25 filed and in a form consistent with applicable nonbankruptcy law shall
26 be filed with the attachment to the proof of claim.

27 (D) If the holder of a claim fails to provide
28 any information required by this subdivision (c), the court may,
29 after notice and hearing, take either or both of the following
30 actions:

31 (i) preclude the holder from
32 presenting the omitted information, in any form, as evidence in any
33 contested matter or adversary proceeding in the case, unless the
34 court determines that the failure was substantially justified or is
35 harmless; or

36 (ii) award other appropriate relief,
37 including reasonable expenses and attorney's fees caused by the
38 failure.

39 * * * * *

COMMITTEE NOTE

Subdivision (c) is amended to prescribe with greater specificity the supporting information required to accompany certain proofs of claim and, in cases in which the debtor is an individual, the consequences of failing to provide the required information.

Existing subdivision (c) is redesignated as (c)(1).

Subdivision (c)(2) is added to require additional information to accompany proofs of claim filed in cases in which the debtor is an individual. When the holder of a claim seeks to recover – in addition to the principal amount of a debt – interest, fees, expenses, or other charges, the proof of claim must be accompanied by a statement itemizing these additional amounts with sufficient specificity to make clear the basis for the claimed amount.

If a claim is secured by a security interest in the property of the debtor and the debtor defaulted on the claim prior to the filing of the petition, the proof of claim must be accompanied by a statement of the amount required to cure the prepetition default.

If the claim is secured by a security interest in the debtor's principal residence, the proof of claim must be accompanied by the attachment prescribed by the appropriate Official Form. In that attachment, the holder of the claim must provide the information required by subparagraphs (A) and (B) of this paragraph (2). In addition, if an escrow account has been established in connection with the claim, an escrow account statement showing the account balance, and any amount owed, as of the date the petition was filed must be submitted in accordance with subparagraph (C). The statement must be prepared in a form consistent with the requirements of nonbankruptcy law. *See, e.g., 12 U.S.C. § 2601 et seq. (Real Estate Settlement Procedure Act).* Thus the holder of the claim may provide the escrow account statement using the same form it uses outside of bankruptcy for this purpose.

Paragraph (D) of subdivision (c)(2) sets forth sanctions that the court may impose on a creditor in an individual debtor case that fails to provide information required by subdivision (c). Failure to provide the required information does not itself constitute a ground for disallowance of a claim. See § 502(b) of the Code. But when an objection to the allowance of a claim is made or other litigation arises concerning the status or treatment of a claim, if the holder of that claim has not complied with the requirements of this subdivision, the court may preclude it from presenting as evidence any of the omitted information, unless the failure to comply with this subdivision was substantially justified or harmless. The court retains discretion to allow an amendment to a proof of claim under appropriate circumstances or to impose a sanction different from or in addition to the preclusion of the introduction of evidence.

Changes Made After Publication

Subdivision (c)(1). The requirement that the last account statement sent to the debtor be filed with the proof of claim was deleted.

Subdivision (c)(2). In subparagraph (C), a provision was added requiring the use of the appropriate Official Form for the attachment filed by a holder of a claim secured by a security interest in a debtor's principal residence.

In subdivision (c)(2)(D), the clause "the holder shall be precluded" was deleted, and the provision was revised to state that "the court may, after notice and hearing, take either or both" of the specified actions.

Committee Note. In the discussion of subdivision (c)(2), the term "security interest" was added to the sentence that discusses the required filing of a statement of the amount necessary to cure a prepetition default.

The discussion of subdivision (c)(2)(D) was expanded to clarify that failure to provide required documentation, by itself, is not a ground for disallowance of a claim and that the court has several options in responding to a creditor's failure to provide information required by subdivision (c).

Other changes. Stylistic changes were made to the rule and the Committee Note.

Summary of Public Comment

Comments on Rule 3001(c)(1) (as published)

09-BK-002. Galaxy Asset Management. This provision is unnecessary and will create additional burdens upon the courts and trustees. Banks are only required to retain account statements for 25 months. If the debtor files more than 25 months after charge-off, the statement may no longer exist. If the intent is to validate a proof of claim, an affidavit should suffice.

09-BK-007 (testimony). Creditors Interchange Receivables Management, LLC (Raymond P. Bell, Jr.). The requirement to attach the last statement sent to a debtor will not reduce the number of objections. An additional attachment will increase the number of documents filed supporting the claim. There is no reason to impose special requirements on credit card (revolving credit) debt. If standards are going to be applied, then they should be applicable to all debts listed in the bankruptcy schedules, as well as making the penalty applicable to the accuracy of the bankruptcy schedules.

09-BK-011 (testimony). Debt Buyers Association International (Barbara A. Sinsley). There is no pressing need for the proposed amendments to this rule. They will discourage creditors from pursuing legitimate claims and impose a disproportionately greater chilling effect on debt buyers. The proposed changes will ultimately also result in the decline of the value of defaulted debt in the market, which in turn will ultimately reduce the availability of unsecured credit to consumers.

09-BK-014 (testimony). National Capital Management, LLC (David M. Wiernusz). The proposed amendments are not necessary because, aside from isolated anecdotal cases, there is no evidence that creditors or claim buyers routinely file overstated proofs of claim. The amendments may impermissibly abridge and modify a creditor's (or debt buyer's as successor) statutorily-grounded substantive right to have its claim deemed allowed so long as that claim does not offend any of the nine exceptions set forth in § 502(b).

09-BK-034. Rep. James R. Langevin. The proposed changes would impose additional burdens on unsecured creditors in consumer cases, potentially discouraging or impairing the ability of legitimate parties to participate in the bankruptcy process.

09-BK-135. Rep. Lamar Smith (ranking minority member, House Judiciary Committee). The proposed changes are likely to increase litigation and its attendant costs. Is there any evidence, beyond a few anecdotes, to indicate that there is a widespread problem of creditors who file unsupportable claims in consumer cases? The requirement for filing debtors' billing statements, thereby making them publicly available, will unnecessarily expose the private details of each consumer's activities.

09-BK-142. ACA International. Requiring the proof of claim to be supported with the last account statement sent to a consumer debtor prior to filing bankruptcy is at odds with federal laws governing the record retention policies of financial institutions to the extent that it would require a statement for an account older than two years. Further, amending the rule as proposed would have devastating impacts on the multi-billion dollar debt purchasing market.

09-BK-147. The Commercial Law League of America. CLLA does not believe there is a significant burden on individual debtors and on the bankruptcy system caused by the number of undocumented, stale claims being filed by the bulk purchasers of charged-off debts. The proposed amendments unnecessarily reduce the intended flexibility of the current proof of claim process by eliminating a creditor's opportunity to provide further evidence of the legitimacy of its claim in the event that the claim is subsequently challenged by a debtor or trustee. The proposed amendments would also likely affect the speed, efficiency, and cost of the bankruptcy process. Debtors would have every incentive to object to claims based upon alleged violation of rigid technical rules. In addition, costs for creditors and debtors in bankruptcy would surely increase, particularly for those creditors who otherwise would file their proof claim without the assistance of legal counsel.

09-BK-072. B-Line LLC. The proposed rule is a solution looking for a problem. Fewer than 0.5% of B-Line's claims receive an objection based upon lack of documentation. Before purchasing a portfolio of consumer bankruptcy receivables, B-Line receives a computer file for each account contained in the portfolio. The computer file generally includes: (i) the originating creditor's account number for the debtor, (ii) the debtor's name, (iii) the debtor's address and contact information, (iv) the debtor's social security number, (v) the pre-petition balance on the account, (vi) the charge-off date, (vii) the account opening date, (viii) the name of the originating creditor, (ix) the last activity on the account, (x) the bankruptcy case number, (xi) the applicable bankruptcy chapter, and (xii) the bankruptcy petition date. B-Line relies upon the fact that the seller has

represented and warranted that the debt is due, owing, valid, and enforceable. In the course of litigating a claim objection, if the existence or amount of the underlying debt is disputed by the debtor, B-Line will request copies of the account documentation generated by the originating creditor.

09-BK-009 (testimony), 09-BK-141. Resurgent Capital Services (Carol J. Moore). The proposed amendment would result in adding thousands of documents to court dockets to support 100% of claims filed, when the data indicate that only a small fraction of claims are questioned, and an even smaller number seem to need such support. The last prepetition account statement will often not include a great deal of substantive information about the account. For example, if the account was charged off before the petition was filed, the last statement may well contain only the balance and interest accrued since the previous statement. Because many creditors stop sending statements after an account is charged off, the last prepetition statement may antedate the filing by a considerable time. The last statement would not include payments made or interest accrued since the last statement was sent.

As an alternative to attaching the last prepetition statement, an “account summary” approach could be used. Under this approach, each claim would be accompanied by an Account Summary Form, which would include information necessary to identify and describe the account, such as the debtor name, redacted social security number and account number, account balance, and charge-off date.

09-BK-012 (testimony), 09-BK-149. Becket & Lee LLP (Alane A. Becket). Attaching account statements to claims may lead to disclosure of personal, medical, or embarrassing information. If the proposed amendments are enacted, they should include a provision that compliance with the amendments satisfies the “writing” requirement of Rule 3001(c). The bankruptcy rules should be amended to include a provision that a debtor’s listing of a debt on Schedule F is prima facie evidence of the existence of the obligation. To the extent that the debt is not disputed, such listing should also be prima facie evidence of the validity of the obligation.

09-BK-132. Creditors Bankruptcy Service. Rather than adding the proposed sentence to Rule 3001(c)(1), expressly provide that copies of electronic records identifying the debtor, the account, the last month’s activity, and any interest, fees, or other charges are sufficient to establish a prima facie proof of the claim.

09-BK-134. AT & T, Inc. As drafted, this rule change might be construed to capture AT&T's claims, in addition to those of credit card companies. AT&T's consumer accounts may all involve to some extent the extension of consumer credit each month. Normally there are few, if any, disputes as to the amounts of AT&T's consumer claims. When there are disputes, the current rules work well. Either clarify that the amendment applies only to "credit card or other similar agreements that provide for the extension of credit and do not involve the provision of goods or services," or modify the proposed rule change so that the creditor can attach other types of documentation and not be compelled to attach the last account statement or be exposed to possible sanctions.

09-BK-140. Housing Policy Council, Financial Services Roundtable, American Bankers Association, Mortgage Bankers Association. Rule 3001(c)(1) should be modified to exempt claims based on home equity lines of credit loans from the requirement that the last account statement accompany the proof of claim.

09-BK-143. K&L Gates and eCast Settlement. Attaching the last account statement presents an unnecessary obstacle to filing an otherwise valid proof of claim. Open-end or revolving consumer credit holders, including holders of credit card debt, may not have retained copies of the statements mailed to the debtor. Electronic records maintained by holders of revolving consumer debt contain information sufficient to show the amounts owed by individual debtors and other information from which it is sufficient to determine whether to file a claim. It is typically not practical (or economical) to generate an account statement in the form last mailed to the debtor. The proposed amendment also presents significant privacy concerns for individual debtors. Production of an account statement in full could reveal every purchase made by a debtor during the period covered by the statement.

09-BK-145. HSBC Bank USA. Creditors generally do not image or otherwise copy the front and back of each account statement that is sent to the debtor. Instead, most creditors maintain the pertinent financial and other information electronically in their systems. The formatting is often different; the boilerplate language is generally not kept on the system. The system information does not look like the actual account statement sent to the debtor. If it is decided that more specific financial information must be provided, we suggest that the proof of claim form itself be modified to include the pertinent information that was included on the last account statement. Alternatively, creditors should be given the flexibility to attach

such information to the proof of claim in the form in which the information is kept.

09-BK-148. Bass and Associates, P.C. It would be difficult, impractical, or impossible for many creditors to comply with the last account statement requirement. If the aim of the rule change is to ensure that proofs of claim are supported by appropriate information, the rule should make clear that the creditor must attach evidence of its claim, and in the case of an open-end or revolving consumer credit account, indicate the status of the debtor's account on the day the petition was filed. That would allow a creditor to furnish this information in different forms.

09-BK-041. National Association of Chapter 13 Trustees. The trustee members of the NACTT are deeply concerned over the increasing deterioration of the quality of information provided in proofs of claim, particularly as consumer debt obligations become more complex and are freely transferred to third party debt buyers or are serviced by entities that are not the holders of the claims.

09-BK-159. Rep. John Conyers, Jr., chair, House Committee on the Judiciary, and Rep. Steve Cohen, chair, Subcommittee on Commercial and Administrative Law. In the last Congress, the Subcommittee on Commercial and Administrative Law held a hearing at which it received testimony about creditor abuses in consumer bankruptcy cases. Some courts have likewise expressed similar concerns about this problem, particularly with respect to bulk debt purchasers. The proposed amendment to Rule 3001(c)(1) – requiring the last account statement sent to the debtor prior to the filing of the bankruptcy petition to be filed with the proof of claim – appears to be a logical amplification of current Rule 3001. It will assist debtors and trustees in gauging whether such claims are untimely under an applicable statute of limitations.

09-BK-016 (testimony). National Association of Consumer Bankruptcy Attorneys (David B. Shaev). An unsecured claim that does not substantially comply with the rules should be disallowed.

09-BK-031. Loraine Troyer. Nonconforming unsecured claims should be disallowed.

09-BK-038. Lucien A. Morin. Creditors should be required to specify the date of the debtor's last payment or date of the debtor's last "actual" charge, as well as attaching the last open-end credit card statement.

09-BK-044. Mohammad Ahmed Faruqui. Require that a buyer of debt prove that it bought the debt from an original lender.

09-BK-046. Jonathan Leventhal. Require a claim to include a copy of the debtor's signature on the original card agreement.

09-BK-053. Shmuel Klein. Proofs of claim should include supporting documentation – a copy of the original agreement, a detailed explanation of how the claim was calculated, the date of the last payment by the debtor – and not simply the last account statement generated by the creditor. Furthermore, the creditor should provide copies of all assignments of the alleged debt to support its current ownership of the debt and its standing to file a claim against the debtor.

09-BK-054. Nancy B. Clark. Unsecured creditors file proofs of claims with little or no documentation attached. In many instances, it is difficult to decipher from the proof of claim who the original creditor was and the last time a payment was received. Debtors and their attorneys cannot be sure if the debt is legitimate, a claim is stale (under the statute of limitations), or a claim is a duplicate due to the selling of the account. The cost to the debtor and the benefit to the estate sometimes make it difficult for attorneys and their clients to file an objection to a claim.

09-BK-055. J. Thomas Black. With respect to unsecured claims being collected by debt buyers, it is often impossible to tell who the creditor is or was, if the debt is time-barred, and how the figure claimed was arrived at. While sometimes the amounts sought are small individually, there are many millions of dollars being collected through the bankruptcy system that are either not due or time barred. This reduces the money available to pay legitimate claimants.

09-BK-074. Sharon L. Smith. Some of my clients have received bills meant for people with similar names.

09-BK-076. Edward Shaw. Rule 3001 is necessary to prevent inaccurate proofs of claim that have been submitted by creditors who appear to mass produce documents without checking them against the actual account statements. It will also provide information that debtors need and is often very hard to get from creditors.

09-BK-078. Ken Rannick. We commonly see discrepancies between proofs of claims and the account statements. Obtaining reconciliations is

almost impossible, and it is certainly not cost effective for most debtors to do so.

09-BK-085. Richard Croak. After confirmation of a chapter 13 case, I am consistently confronted by claims filed by creditors who are not on the original schedules but are members of the debt buying industry. Few of these claims are consistent with the prior information provided to the three major credit reporting agencies by the original creditors. When the debt buyers are called regarding inaccuracies, they exhibit a cavalier attitude regarding their claims.

09-BK-086. David Linde. My experience has been that many claims filed in chapter 13 cases do not even come close to meeting the requirements provided by Rule 3001, such as attaching a copy of the underlying contract or statement. This situation has been made worse by the fact that now it is often a third-party debt collector that is filing the claim. In the majority of cases, those third-party debt collectors attach none of the required documents. All the debt collector attaches is a self-generated document listing the amount allegedly owed and a statement indicating that the documents required by Rule 3001 are no longer available.

09-BK-090. Tracy Wrisinger. Often proofs of claim are filed with limited information that does not match creditors/account numbers/balances provided by my clients or obtained through credit reports. Many times the debt buyers will withdraw if challenged. They should not file in the first place if the debt cannot be substantiated.

09-BK-098. Alan Ramos. Many creditors, particularly debt buyers, provide the debtor, the trustee, and the court with little or no documentation to support their claims. The cost of objecting to these claims, not to mention the court resources that must be devoted to claims objections, is prohibitive. This is a fact that I believe these creditors rely upon. The burden should be placed on the creditor to provide documentary support for their claims. This will reduce the necessity for the large majority of claims objections, which will allow more funds to be available for creditors and will free up court resources for more important issues.

09-BK-100. Mark Cornell. With the rise of an entire industry of debt buyers and claims purchasing, debtors and the bankruptcy trustee have a very difficult time matching the claims listed in the bankruptcy petition with the claims filed. In chapter 13 cases, I routinely review claims filed, and less than 20% of the claims are filed by the original creditors. Matching the claims filed with the claims scheduled is a daunting task. In reviewing

claims files, I have on occasion discovered claims that were more than ten years old, and sometimes even claims discharged in a prior bankruptcy in the distant past. These claims are always filed by purchasers of the debt. I note that the information that would be required to comply with the proposed amendment is no more than the information that the creditor would be required to provide to prevail in a state court collection action.

09-BK-111. G. Bruce Kuehne. In the case of open-end credit card lenders (and especially their assignees), there is almost never any substantiation for a filed proof of claim. This consistent practice imposes substantial burdens on the system. We usually have no way to know whether the account is valid, who the original lender was, the manner in which the debt is calculated, when the last transaction on the account occurred, etc. We then have the option of incurring the substantial expense of filing an objection to claim and showing up in court to simply say that we do not understand the proof of claim, or ignoring the lack of documentation and permitting the court to allow the claim. Since the system does not ordinarily allow debtors' counsel to be fairly compensated for such objections, this is a genuine dilemma for both us and the client.

09-BK-120. Gary Armstrong. When debtors prepare their bankruptcy schedules, the only information debtors and their attorneys have at hand regarding credit card debt is the most recent information from the purported creditor, such as a demand letter, a billing statement, or a report to a credit reporting agency. Debtors' attorneys rarely have documents available at the time of preparing the schedules to determine whether the balance asserted by the creditor is, in fact, the lawful balance owed on the debt. And, in the case of a debt collector or purported purchaser of the debt, we have no information by which we can confirm that the present claimant is the owner of the debt. Frequently claims are sold from one party to another with little information other than the identity of the purported debtor, a last payment date, a last balance amount, and an interest rate. That bare information is submitted to courts as if somehow it was competent evidence of liability for the debt and the actual amount of the debt owed. The only way that debtors and their counsel, and the courts, can evaluate the correctness of the claim is to obtain the documentation on which the claim is based.

Rather than requiring all unsecured creditors to provide a single statement that is of little help, all claimants should be required to provide a copy of the writing on which the claim is based. Failure to do so should remove the prima facie validity of the claim. In addition, the claimant, upon written request of any party in interest, should be required to provide to that party all of the following documents: the complete written agreement (to the

extent not already filed) documenting the claim; up to four years' worth of statements or similar records showing the charging of fees and interest on the account; and, if the claim is asserted by someone other than the original creditor, all agreements, assignments, or other writings that evidence the transfer of the debt or claim from the originating creditor to the claimant. The claim should be disallowed if the documentation is not provided within a reasonable time.

09-BK-121. Stephen M. Goldberg. Various parts of the unsecured debt industry have adopted a practice of changing the account numbers on debtor's accounts at various points in the collection process. This practice, coupled with the repeated sale and assignment of these debts, makes it nearly impossible for debtors to identify the claims of various creditors accurately.

09-BK-150. David S. Yen. I have had numerous cases in which my client cannot tell who the original creditor was from the proof of claim that was filed. In many cases, even after engaging in informal discovery, I was still unable to determine whether there was a valid claim in the first place or whether my client had a valid defense to the claim. In such cases if I did file an objection to the claim, it was only after doing so that we obtained documents that proved that there was a defense to the claim. There are many occasions when we decide not to file an objection because even a completely successful objection will have no effect on how much my client has to pay to complete his or her chapter 13 plan. The lack of detail in the proof of claim is sometimes the reason that no objection is filed. Most courts have held that the creditor's failure to attach documents as called for by Rule 3001 is not sufficient to support an objection to a claim. In order to prevail on an objection to a poorly documented claim, I need to have an affidavit from the debtor stating why the claim is invalid. Often my client is unwilling to sign an affidavit that he or she does not owe a debt, precisely because there is so little information in the proof of claim that he or she cannot state with certainty that the debt is not owed.

The rule should go further and require that, where a signature or written application is required for there to be a legally enforceable contract, a copy of the document containing the signature must be attached to the proof of claim. If the signature was an electronic signature, the proof of claim should describe the date of the electronic signature and enough additional information to make a prima facie case that there was a valid electronic signature.

09-BK-155. Richard D. Shepard. Currently no practical mechanism exists to require secured creditors and debt buyers to attach documentation to proofs of claim establishing that the claimant either owns the debt obligation or has any contractual relationship of any kind with the actual creditor. This requires debtor's counsel to either ignore the issue of the claimant's apparent lack of standing, or else consume the debtor's resources and the court's time in efforts to resolve the standing issue through an objection to the claim or an adversary proceeding. This is highly inefficient since the necessary documentation, if it exists, is in the possession of, or accessible to, the claimant.

09-BK-080 – Seth Davidson; 09-BK-084 – Richard Nemeth; 09-BK-088 – Penny Souhrada; 09-BK-126 – Jonathan C. Becker. The proposed amendments should require that when an entity files a proof of claim, it must demonstrate that it in fact owns the claim. The entity should also be required to disclose whether the statute of limitations has run on the claim. Any contracts on which the claim is based should be required to be attached. In the case of unsecured claims, those that fail to comply with the rules should be disallowed.

09-BK-106. Jeanne Hovenden. Regarding the requirements in Rule 3001 for claims based on open-end credit agreements, such as credit cards, the creditor should be required to produce the original signed application for the credit line, not just a recent statement on the account. Debt buyers that file a claim should also be required to send in the original credit applications signed by the debtor, the assignments or purchase documents showing that they now own the debt, and all prior account numbers that were assigned to the account since origination. In the world of securitized debt, including debts that have already been discharged in a bankruptcy, being able to determine who the original creditor was and the chain of title through the land of debt-traders, gives the debtor a fighting chance of not paying the same debt multiple times.

I am about to file an adversary proceeding against a creditor and the creditor's counsel for garnishing a debtor after a discharge in a 13 case in which the creditor and counsel submitted a claim that was paid in the prior chapter 13 case. I can do it only because I can trace the debt. When the debt buyers discard the original creditor's account number and add a new one of their own, it is impossible for the debtor to know with any certainty what creditor they initially borrowed from. This is compounded when the debt buyers and collection agency change the "date opened" in the credit reports from the date the account was opened by the original creditor to the

date they bought the account or began reporting its collection status in the credit report.

09-BK-128. Mitchell P. Goldstein. Creditors should be required to file all assignments along with their claims to prove that they are the current owner of the claim. The rules need a clear statement that their provisions are in addition to any other remedy allowed by other laws and are not meant to override those remedies. Several courts have taken the position that bankruptcy laws pre-empt other federal laws like the Fair Debt Collection Practices Act. Each law exists for specific and different reasons. Both should be respected.

Comments on Rule 3001(c)(2)

09-BK-034. Rep. James R. Langevin. The provisions requiring creditors to itemize interest, expenses, or charges and imposing sanctions for failure to furnish the required information raise concerns.

09-BK-142. ACA International. The proposed amendments are out of step with the type of documentation routinely stored by financial institutions under federal laws. For example, debt purchasers charged with reporting discharged debt frequently are unable to separately itemize principal and interest. Moreover, existing requirements already create a clear obligation on any party filing a proof of claim to properly evidence the claim, and they contemplate the opportunity to reasonably dispute a claim that is not properly supported.

09-BK-008 (testimony). B-Line LLC (Linh K. Tran). The proposal conflicts with §§ 501-502 of the Bankruptcy Code in creating a new basis to object to or disallow a claim. It would violate due process to impose sanctions against a creditor who cannot comply with the itemization requirement due to the terms of the existing contract between the debtor and the creditor. Fed. R. Civ. P. 15 and case law permit liberal amendments in the interest of justice; the same should be true for proofs of claim. Instead of the current proposals, the rule should define the minimum threshold for “prima facie validity” under Rule 3001. The itemization requirement in Rule 3001(c)(2)(A) should be deleted. Credit card accounts cannot comply since, under the terms of many contracts, interest becomes principal. Remove the prohibition against amendments of claims and one-sided sanctions.

09-BK-009 (testimony), **09-BK-141. Resurgent Capital Services (Carol J. Moore)**. The vast majority of credit card agreements provide that interest earned in a given month, if not paid, becomes part of the principal balance of the card. If the borrower doesn't pay the bill in full every month, a credit card account balance at any given time has become a summation of hundreds – possibly thousands – of purchases, payments, finance charges, and fees. Separating those would impose a tremendous burden on creditors and might not even be possible. The burden would be particularly difficult for account purchasers, as the “balance” purchased is generally a single number to which the new owner may add interest and, in some cases, other charges. Given that over 99% of claims are recognized as valid by the debtor, the sanction provision essentially imposes strict liability on creditors to comply with a burdensome requirement that provides limited benefits to the debtor, the court, and creditors.

09-BK-149. Becket & Lee LLP. There seems to be no purpose for the imposition of the itemization requirement on unsecured claims, since all components of the debt are general unsecured claims. The rule as now proposed provides an incentive for litigation. While the Committee seeks to clarify what documentation is required to accompany certain proofs of claim, it has not specified that the “writing” requirement of Rule 3001 is satisfied if the new requirements are met. This omission leaves the door open to the continued use of Rule 3001 as a means to object to claims based on the lack of a “writing.”

09-BK-132. Creditors Bankruptcy Service. In effect, this rule amendment resolves through the rulemaking process (by prohibiting evidence on the issue) the substantive issue of whether § 502 is exclusive. This proposed rule will have a profound chilling on creditors, particularly when the vast majority of unsecured claims in individual bankruptcy are relatively small and the intervention of attorneys is not economically justified. Subdivision (c)(2)(D) should be deleted.

09-BK-143. K&L Gates and eCast Settlement. Because of the nature of credit card claims, any itemization of that portion of the principal balance that originally represented unpaid interest could require a review of the entire payment history for a particular account. Depending upon the terms of the applicable credit agreement, unpaid interest and fees may be added to the outstanding principal balance. Proposed Rule 3001(c)(2)(D) provides that if any information required by subsection (c) is not provided with the proof of claim, the creditor will be precluded from presenting the information in any form in a subsequent contested matter or adversary proceeding. The proposed rule goes far beyond that necessary to prevent

creditor misconduct. The fact that the proposed rule would allow the admission of omitted information in an alternate form if the court found the original omission to be “substantially justified” or “harmless” does not alleviate this problem. The rule provides no guidance as to when an omission would be substantially justified or harmless, and the determination apparently would be made without any inquiry into the underlying merits of the claim.

09-BK-148. Bass and Associates, P.C. With respect to credit card claims, without making certain assumptions, the itemized statement required by Rule 3001(c)(2)(A) most likely is not within the capabilities of the major processing systems in use by most creditors. That is because of the unique operation of credit card accounts and the methods for applications of payments. The penalties provided by subdivision (c)(2)(D) far exceed what is required to ensure compliance with the proposed rule. Additionally, the language appears to contradict the language of the Bankruptcy Code and calls into question the significance of a debtor’s listing of a debt on her schedules.

09-BK-146. American Bankers Association, Financial Services Roundtable, Mortgage Bankers Association. The organizations strongly oppose two provisions of Rule 3001 – new documentation requirements and authorization of additional sanctions for the failure to provide those documents. They suggest refinements of secondary aspects of the proposed amendments that could be addressed in a narrower proposal.

09-BK-135. Rep. Lamar Smith, ranking minority member, House Judiciary Committee. It is possible that the proposed amendments to Rule 3001 violate the Rules Enabling Act and are inconsistent with the “just, speedy, and inexpensive determination of every case and proceeding,” as provided in Rule 1001.

09-BK-137. American Financial Services Association. Rule 3001(c)(2)(D) should be revised to require that a creditor be provided notice and a reasonable opportunity to cure any omissions before sanctions can be imposed. Enforcement of the requirements of Rule 3001(c) should be governed by the standards of Rule 9011. Finally, trustees should not be awarded sanctions for performing their statutory duty to examine proofs of claim and to object to claims that are improper.

09-BK-140. Housing Policy Council, Financial Services Roundtable, American Bankers Association, Mortgage Bankers Association. These organizations oppose the amendments to Rule 3001, including sanctions,

because the revisions upset the balance of burdens and responsibilities for the claims process set by Congress, in violation of the Rules Enabling Act. The proposed sanctions are unduly severe, are not supported by statutory authority, and reverse the presumption of validity that attaches to timely filed proofs of claim. If creditors are required to provide new documentation to support a proof of claim or an adjustment to a proof of claim, nationwide model forms should be adopted to increase certainty and compliance

09-BK-115. Hon. Howard R. Tallman (Bankr. D. Col.) (on behalf of a group of consumer debtor and creditor attorneys in his district). Rule 3001 does not address the inherent conflict between the timing of the confirmation hearing required by the Code and the later deadline to file a proof of claim.

09-BK-130. Prof. Bernadette Bollas Genetin (School of Law, University of Akron). As it is currently drafted, the proposed rule is somewhat ambiguous, and, on some readings, would be subject to challenge as violating the Bankruptcy Rules Enabling Act. The sanction provision in Rule 3001(c)(2)(D) conflicts with the Bankruptcy Code and abridges, enlarges, or modifies a substantive right. The Committee might instead formulate specific procedures for a party in interest to request additional information upon a demonstration of need. The rule might also include some mechanisms, such as affidavits or certifications, for ensuring the good faith of requests, and provide additional sanctions for instances in which a claimant failed, upon request, promptly to produce the requested information.

09-BK-114. The Insolvency Law Committee of the Business Law Section of the State Bar of California. The proposed sanction in Rule 3001(c)(2)(D) is unnecessarily harsh and invites judicial oversight that is not required or desirable. A better approach to enforce the new disclosure requirements is found in § 502(d) of the Bankruptcy Code, which disallows a claim until an avoidable transfer that the creditor has received is returned to the estate. In a similar manner, the creditor's claim should only be temporarily disallowed for failing to make the necessary disclosures, giving the creditor an opportunity to cure the deficiency before the claim is barred.

09-BK-004. Hon. Marvin Isgur (Bankr. S.D. Tex.). Although I agree with Rule 3001(c)(2)(B), I urge the Committee to require a full loan history. The proposed rule may lead to results that are inconsistent with the only court of appeals authority on the issue. See *Campbell v. Countrywide Home*

Loans, Inc., 545 F.3d 348 (5th Cir. 2008). The required escrow report should be tailored to meet the requirements of a bankruptcy case.

09-BK-041. National Association of Chapter 13 Trustees. The trustee members of the NACTT are deeply concerned over the increasing deterioration of the quality of information provided in proofs of claim and thus are generally supportive of the proposed amendments. The language in subdivision (c)(2)(C) – “consistent with applicable nonbankruptcy law” – may lead to the calculation of ongoing mortgage payments in a manner inconsistent with § 1322(b)(5) of the Bankruptcy Code, which permits prepetition escrow arrearages to be cured. A loan history does not need to be attached to the proof of claim. Adequate tools exist for trustees to obtain such information either under nonbankruptcy law or bankruptcy discovery rules.

09-BK-129. National Association of Consumer Bankruptcy Attorneys. NACBA strongly supports the Rule 3001 amendment. It will help to combat abuses by mortgage servicers who fail to adequately disclose and itemize charges that have been added to the principal and interest due on debtors’ mortgages, as well as the filing of proofs of claim by purported mortgage holders who cannot document their interests. Such proofs of claim are regularly filed by attorneys who have never reviewed the underlying documentation or history of charges.

09-BK-157. National Association of Chapter Thirteen Trustees’ Mortgage Liaison Committee. The Committee supports Rule 3001, but is concerned about requiring an escrow analysis as of the date of the bankruptcy filing. It advocates adopting a national form on which the breakout of information regarding the mortgage would be provided as an attachment to the proof of claim.

09-BK-151. Debra L. Miller. I support Rule 3001 and suggest adopting a standard form for a mortgage proof of claim attachment.

09-BK-159. Rep. John Conyers, Jr., chair, House Committee on the Judiciary, and Rep. Steve Cohen, chair, Subcommittee on Commercial and Administrative Law. The filing and documentation requirements exponentially increased for consumer debtors as a result of the enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act. The United States Trustee Program has enforced these requirements with particular exuberance. With respect to policing creditor abuses in consumer bankruptcy cases, however, there is a need for more enforcement tools. This need has been expressed in congressional hearings and by some courts,

and a recent academic study found substantial discrepancies between mortgage debt scheduled by debtors and creditors' proofs of claim.

09-BK-016 (testimony). National Association of Consumer Bankruptcy Attorneys (David B. Shaev). NACBA supports Rule 3001, including sanctions and requirements for additional documentation and itemization of claims. The amendment should be strengthened to require that the entity filing a proof of claim provide proof that it is the owner of the claim and that it disclose whether the statute of limitations has run. It should also require attachment of all contracts on which the claim is based.

09-BK-029. James J. Haller. Rule 3001 should be strengthened to require that the entity filing the proof of claim provide proof that it is the owner of the claim.

09-BK-043, O. Max Gardner, III. All bankruptcy courts should be directed to immediately approve these rules in the form of emergency administrative orders.

09-BK-054. Nancy B. Clark. Creditors should be required to reimburse debtors who successfully object to a claim.

09-BK-064. James Hong. Mortgage holders on the debtor's home should be required to supply proof of the identity of the current holder of the mortgage.

09-BK-070. John F. Cannizzaro. Rule 3001(c)(2)(A) should require the "itemized statement" to specify to whom each payment was made and for what purpose.

09-BK-069. Charles J. Roedersheimer. In the past two years, local rules in the S.D. Ohio, Dayton, have required documentation of claims as proposed by Rule 3001, and the number of objections filed to these claims has been reduced substantially. Discovery from creditors is no longer required to have them break out the arrearage costs in their claims in order to determine if the claims include improper attorney's fees, unallowed sheriff sale costs on foreclosure that are refunded because of stay by bankruptcy filing, and other administrative fees that would be regarded as unreasonable or excessive.

09-BK-091. G. Craig Hubble. Determination of what mortgage lenders are making claims for is an ongoing problem. They add on miscellaneous, unspecified charges. In many cases, they fail to give the debtor credit for

payments made, so they start off with an incorrect beginning balance. The new rules would greatly simplify the process.

09-BK-099. Gerald McNally, Jr. It is impossible for a debtor to propose a chapter 13 plan when he or she cannot get a finite number from a lender stating the amount owed. A proof of claim with a single sheet summary does not enable me to determine the accuracy of the claimed amount. This prevents me from representing my debtors intelligently or honestly. These flaws in the bankruptcy system should be corrected.

09-BK-102. Kenneth E. Lenz. Mortgage servicers, by providing no information as to arrearages or escrows, have required debtors' attorneys to spend countless hours contacting servicers to obtain this basic information, and to delay confirmation of chapter 13 plans until such information is provided.

09-BK-136. Annabelle Patterson. I strongly support Rule 3001 as being essential to curbing systematic abuse by mortgage servicers. Some mortgage proofs of claim include double-dipping escrow payments, foreclosure fees and costs that are never itemized or documented in any way, and overcharges for fees and costs.

09-BK-040. Prof. Katherine Porter (Visiting Associate Professor at University of California-Berkeley Law School). I support the proposed amendments to Rule 3001. In my article Misbehavior and Mistake in Bankruptcy Mortgage Claims, 87 TEX. L. REV. 121 (2008), I reported the results of my analysis of more than 1700 proofs of claims filed by mortgage creditors. The major findings were:

- More than half (52.8%) of claims were not supported by the documentation required by current Rule 3001(c) or Rule 3001(d), or an itemization required by Form 10's instructions.
- Debtors and creditors disagreed on the amount of mortgage debt for 95.6% of loans, reflected by discrepancies between debtors' schedules and creditors' proofs of claim.
- Itemizations were missing from 16.1% of the claim. Many of the attached "itemizations" did not contain any breakdown of principal, interest, fees, and other charges, and frequently put large sums in categories such as "other."

The need for the additional information provided for in the proposed Rule 3001(c) is acute for both unsecured and secured claims. The Committee should reject arguments that the lack of objections to claims is any meaningful evidence of the accuracy of the claims being filed and paid

under the current rule. The infrequency of objections under the current system may, in fact, be evidence of the problems with the current claims process. In many jurisdictions, a debtor must provide a specific basis for an objection to a claim. Yet, without some minimal documentation to identify the claimant and to understand the asserted basis of what is owed, the debtor is deprived by the creditor of the necessary knowledge to determine whether an objection is warranted.

Official Forms should be developed to accompany the proposed rules. They would increase the efficiency of the claims process, reducing costs for creditors and facilitating the review of claims by courts, trustees, debtors, and all creditors.

Comments by other members of the consumer bankruptcy bar, supporting the amendments to Rule 3001(c):

- 09-BK-027. David Commons**
- 09-BK-030. Barbara Stief**
- 09-BK-032. William J. Neild**
- 09-BK-033. Ronald Ryan**
- 09-BK-039. Frank Cahill**
- 09-BK-042. Brett Weiss**
- 09-BK-045. John R. Cantrell, Jr.**
- 09-BK-047. David Rao**
- 09-BK-048. Pernell McGuire**
- 09-BK-049. Paul Gandy**
- 09-BK-050. Ken Keeling**
- 09-BK-051. Bernd G. Stittleburg**
- 09-BK-052. David H. Abrams**
- 09-BK-056. Richard C. Foote**
- 09-BK-057. Pamela Simmons-Beasley**
- 09-BK-059. Ann N. Nguyen**
- 09-BK-060. Christopher Smith**
- 09-BK-061. Seth D. McCloskey**
- 09-BK-062. Glenda J. Gray**
- 09-BK-063. D. Justin Harelik**
- 09-BK-065. Edgar P. Petti**
- 09-BK-066. Patricia Johnson**
- 09-BK-067. Cristina Rodriguez**
- 09-BK-068. Robert R. Cloar**
- 09-BK-071. Fred Martens**
- 09-BK-073. Ruben F. Arizmendi**

09-BK-075. Charles Farrell
09-BK-078. Ken Rannick
09-BK-079. Barbara L. Franklin
09-BK-081. Howard Iken
09-BK-082. Stephen Manning
09-BK-083. Brad Eaby
09-BK-087. Jim Green
09-BK-089. Bill Turner
09-BK-092. John M. Caraway, Jr.
09-BK-093. Bob Haeger
09-BK-095. Steve Rodriguez
09-BK-096. Robert Pullis
09-BK-097. Brett Weiss
09-BK-101. Charles E. Stalnaker
09-BK-103. Aaron C. Amore
09-BK-105. Larry Regan
09-BK-107. Sonja Ann Becker
09-BK-108. Deanna Tubandt
09-BK-109. Richard K. Gustafson, II
09-BK-110. Bruce H. Williams
09-BK-112. Troy R. Jensen
09-BK-113. Richard Bushman
09-BK-117. Lex A. Rogerson, Jr.
09-BK-118. John Francis Murphy
09-BK-119. Melvin N. Eichelbaum
09-BK-122. Stan Lockhart
09-BK-123. Maria D. McIntyre for the Financial Protection
Law Center
09-BK-125. Debra Voltz-Miller
09-BK-138. Rosemary Williams
09-BK-154. Joseph M. Romano
09-BK-156. William L. Fava
09-BK-158. Erin B. Shank

Rule 3002.1. Notice Relating to Claims Secured by Security Interest in the Debtor's Principal Residence

1 (a) IN GENERAL. This rule applies in a chapter 13 case
2 to claims that are (1) secured by a security interest in the debtor's
3 principal residence, and (2) provided for under § 1322(b)(5) of the
4 Code in the debtor's plan.

5 (b) NOTICE OF PAYMENT CHANGES. The holder of
6 the claim shall file and serve on the debtor, debtor's counsel, and
7 the trustee a notice of any change in the payment amount, including
8 any change that results from an interest rate or escrow account
9 adjustment, no later than 21 days before a payment in the new
10 amount is due.

11 (c) NOTICE OF FEES, EXPENSES, AND CHARGES.
12 The holder of the claim shall file and serve on the debtor, debtor's
13 counsel, and the trustee a notice itemizing all fees, expenses, or
14 charges (i) that were incurred in connection with the claim after the
15 bankruptcy case was filed, and (ii) that the holder asserts are
16 recoverable against the debtor or against the debtor's principal
17 residence. The notice shall be served within 180 days after the date
18 on which the fees, expenses, or charges are incurred.

19 (d) FORM AND CONTENT. A notice filed and served
20 under subdivision (b) or (c) of this rule shall be prepared as

21 prescribed by the appropriate Official Form, and filed as a
22 supplement to the holder's proof of claim. The notice is not
23 subject to Rule 3001(f).

24 (e) DETERMINATION OF FEES, EXPENSES, OR
25 CHARGES. On motion of the debtor or trustee filed within one
26 year after service of a notice under subdivision (c) of this rule, the
27 court shall, after notice and hearing, determine whether payment of
28 any claimed fee, expense, or charge is required by the underlying
29 agreement and applicable nonbankruptcy law to cure a default or
30 maintain payments in accordance with § 1322(b)(5) of the Code.

31 (f) NOTICE OF FINAL CURE PAYMENT. Within 30
32 days after the debtor completes all payments under the plan, the
33 trustee shall file and serve on the holder of the claim, the debtor,
34 and debtor's counsel a notice stating that the debtor has paid in full
35 the amount required to cure any default on the claim. The notice
36 shall also inform the holder of its obligation to file and serve a
37 response under subdivision (g). If the debtor contends that final
38 cure payment has been made and all plan payments have been
39 completed, and the trustee does not timely file and serve the notice
40 required by this subdivision, the debtor may file and serve the
41 notice.

42 (g) RESPONSE TO NOTICE OF FINAL CURE
43 PAYMENT. Within 21 days after service of the notice under
44 subdivision (f) of this rule, the holder shall file and serve on the
45 debtor, debtor's counsel, and the trustee a statement indicating (1)
46 whether it agrees that the debtor has paid in full the amount
47 required to cure the default on the claim, and (2) whether the
48 debtor is otherwise current on all payments consistent with §
49 1322(b)(5) of the Code. The statement shall itemize the required
50 cure or postpetition amounts, if any, that the holder contends
51 remain unpaid as of the date of the statement. The statement shall
52 be filed as a supplement to the holder's proof of claim and is not
53 subject to Rule 3001(f).

54 (h) DETERMINATION OF FINAL CURE AND
55 PAYMENT. On motion of the debtor or trustee filed within 21
56 days after service of the statement under subdivision (g) of this
57 rule, the court shall, after notice and hearing, determine whether
58 the debtor has cured the default and paid all required postpetition
59 amounts.

60 (i) FAILURE TO NOTIFY. If the holder of a claim fails to
61 provide any information as required by subdivision (b), (c), or (g)
62 of this rule, the court may, after notice and hearing, take either or
63 both of the following actions:

64 (1) preclude the holder from presenting the omitted
65 information, in any form, as evidence in any contested matter or
66 adversary proceeding in the case, unless the court determines that
67 the failure was substantially justified or is harmless; or
68 (2) award other appropriate relief, including
69 reasonable expenses and attorney's fees caused by the failure.

COMMITTEE NOTE

This rule is new. It is added to aid in the implementation of § 1322(b)(5), which permits a chapter 13 debtor to cure a default and maintain payments on a home mortgage over the course of the debtor's plan. It applies regardless of whether the trustee or the debtor is the disbursing agent for postpetition mortgage payments.

In order to be able to fulfill the obligations of § 1322(b)(5), a debtor and the trustee have to be informed of the exact amount needed to cure any prepetition arrearage, *see* Rule 3001(c)(2), and the amount of the postpetition payment obligations. If the latter amount changes over time, due to the adjustment of the interest rate, escrow account adjustments, or the assessment of fees, expenses, or other charges, notice of any change in payment amount needs to be conveyed to the debtor and trustee. Timely notice of these changes will permit the debtor or trustee to challenge the validity of any such charges, if appropriate, and to adjust postpetition mortgage payments to cover any undisputed claimed adjustment. Compliance with the notice provision of the rule should also eliminate any concern on the part of the holder of the claim that informing a debtor of a change in postpetition payment obligations might violate the automatic stay.

Subdivision (a) specifies that this rule applies only in a chapter 13 case to claims secured by a security interest in the debtor's principal residence.

Subdivision (b) requires the holder of a claim to notify the debtor, debtor's counsel, and the trustee of any postpetition change in the mortgage payment amount at least 21 days before the new payment amount is due.

Subdivision (c) requires an itemized notice to be given, within 180 days of incurrance, of any postpetition fees, expenses, or charges that the holder of the claim asserts are recoverable from the debtor or against the debtor's principal residence. This might include, for example, inspection fees, late charges, or attorney's fees.

Subdivision (d) provides the method of giving the notice under subdivisions (b) and (c). In both instances, the holder of the claim must give notice of the change as prescribed by the appropriate Official Form. In addition to serving the debtor, debtor's counsel, and the trustee, the holder of the claim must also file the notice on the claims register in the case as a supplement to its proof of claim. Rule 3001(f) does not apply to any notice given under subdivision (b) or (c), and therefore the notice will not constitute prima facie evidence of the validity and amount of the payment change or of the fee, expense, or charge.

Subdivision (e) permits the debtor or trustee, within a year after service of a notice under subdivision (c), to seek a determination by the court as to whether the fees, expenses, or charges set forth in the notice are required by the underlying agreement or applicable nonbankruptcy law to cure a default or maintain payments.

Subdivision (f) requires the trustee to issue a notice to the holder of the claim, the debtor, and the debtor's attorney within 30 days after completion of payments under the plan. The notice must (1) indicate that all amounts required to cure a default on a claim secured by the debtor's principal residence have been paid, and (2) direct the holder to comply with subdivision (g). If the trustee fails to file this notice within the required time, this subdivision also permits the debtor to file and serve the notice on the trustee and the holder of the claim.

Subdivision (g) governs the response of the holder of the claim to the trustee's or debtor's notice under subdivision (f). Within 21 days after service of notice of the final cure payment, the holder of the claim must file and serve a statement indicating whether the prepetition default has been fully cured and also whether the debtor is current on all payments in accordance with § 1322(b)(5) of the Code. If the holder of the claim contends that all cure payments have not been made or that the debtor is not current on other payments required by § 1322(b)(5), the response must itemize all amounts, other than regular future installment payments, that the holder contends are due.

Subdivision (h) provides a procedure for the judicial resolution of any disputes that may arise about payment of a claim secured by the debtor's principal residence. Within 21 days after the service of the statement under (g), the trustee or debtor may move for a determination by the court of whether any default has been cured and whether any other non-current obligations remain outstanding.

Subdivision (i) specifies sanctions that may be imposed if the holder of a claim fails to provide any of the information as required by subdivisions (b), (c), or (g).

If, after the chapter 13 debtor has completed payments under the plan and the case has been closed, the holder of a claim secured by the debtor's principal residence seeks to recover amounts that should have been but were not disclosed under this rule, the debtor may move to have the case reopened in order to seek sanctions against the holder of the claim under subdivision (i).

Changes Made After Publication

Subdivision (a). As part of organizational changes intended to make the rule shorter and clearer, a new subdivision (a) was inserted that specifies the applicability of the rule. Other subdivision designations were changed accordingly.

Subdivision (b). The timing of the notice of payment change, addressed in subdivision (a) of the published rule, was changed from 30 to 21 days before payment must be made in the new amount.

Subdivision (d). The provisions of the published rule prescribing the procedure for providing notice of payment changes and of fees, expenses, and charges were moved to subdivision (d).

Subdivision (e). As part of the organizational revision of the rule, the provision governing the resolution of disputes over claimed fees, expenses, or charges was moved to this subdivision.

Subdivision (f). The triggering event for the filing of the notice of final cure payment was changed to the debtor's completion of all payments required under the plan. A sentence was added requiring the notice to

inform the holder of the mortgage claim of its obligation to file and serve a response under subdivision (g).

Subdivision (h). The caption of this subdivision (which was subdivision (f) as published), was changed to describe its content more precisely.

Subdivision (i). The clause “the holder shall be precluded” was deleted, and the provision was revised to state that “the court may, after notice and hearing, take either or both” of the specified actions.

Committee Note. A sentence was added to the first paragraph to clarify that the rule applies regardless of whether ongoing mortgage payments are made directly by the debtor or disbursed through the chapter 13 trustee. Other changes were made to the Committee Note to reflect the changes made to the rule.

Other changes. Stylistic changes were made throughout the rule and Committee Note.

Summary of Public Comment

09-BK-135. Lamar Smith (ranking minority member, House Judiciary Committee). Proposed new Rule 3002.1 will impose unnecessary burdens on creditors in chapter 13 cases that hold claims secured by home mortgages, and the rule contains the same objectionable sanction provision as Rule 3001(c).

09-BK-022 (testimony). American Bankers Association (Philip S. Corwin). Notices of changes in payment amount due to interest rate or escrow account adjustments should be entitled to a presumption of validity absent evidence to the contrary. Providing itemized notice of fees, expenses, or charges within 180 days after they were incurred may not be feasible. A longer time period should be set. Many creditors will be unable to serve a statement on the debtor’s counsel and other parties within 21 days of receipt of a cure notice. This period should be lengthened to at least 90 days. A model form should be promulgated for the provision of such notice by a trustee or debtor.

09-BK-140. Housing Policy Council, Financial Services Roundtable, American Bankers Association, Mortgage Bankers Association. The organizations oppose proposed Rule 3002.1, including sanctions. The

revisions upset the balance of burdens and responsibilities for the claims process set by Congress in violation of the Rules Enabling Act. If creditors are required to provide new documentation to support an adjustment to a proof of claim, nationwide model forms should be adopted to increase certainty and compliance. The timing of deadlines in the new 3002.1 notification scheme must be modified to create more realistic deadlines for mortgage servicers. In 3002.1(a), change the 30 days to file a Notice of Payment Changes to “at least 25, but no more than 120 calendar days, prior to the due date of the new payment amount” to follow the Truth in Lending Act adjustable interest rate change notice. In 3002.1(c), change the 180-day period to file a Notice of Fees, Expenses, and Charges to a year, and change the one year for the debtor or trustee to respond to the notice to 21 days. In 3002.1(e), change the 21-day deadline for responding to a Notice of Final Cure to a 90-day deadline.

09-BK-115. Hon. Howard R. Tallman (Bankr. D. Col.) (on behalf of a group of consumer debtor and creditor attorneys in his district). Proposed Rule 3002.1 fails to take into account home equity lines of credit. Depending upon rate fluctuations, payments could change monthly, making it difficult, if not impossible, to comply with the rule. Increased fees and burdens are caused to creditors by requiring them to examine loans secured by the debtor’s primary residence every 180 days or risk waiving fees, expenses and charges recoverable from the debtor under the terms of the loan documents. This increased participation by the secured creditor may result in significant additional costs to debtors since the terms of most promissory notes provide that debtors can be charged reasonable legal fees and costs associated with legal actions. As drafted, the rule may result in at least yearly litigation if the debtor or trustee objects to the recoverability of fees, expenses, or charges. Given the high percentage of cases that never reach discharge, the frequent supplementation of claims, and the resulting additional costs of the supplementation, may ultimately prove unnecessary in most cases.

Rule 3002.1(e) requires a holder to file a Response to the Notice of Final Cure, rather than treating silence as consent. Failure to file a response could subject the holder to possible sanctions, including an award of attorneys’ fees and expenses. Many consumer attorneys structure their fees so that confirmation of the plan is the end of their representation. Monitoring the supplemental claims, reviewing the Notice of Final Cure and Response, and filing a Motion to Determine Cure will require counsel to either remain active in each chapter 13 case filed for the life of the plan or withdraw from the case.

09-BK-124. Glen K. Palman for the Bankruptcy Court Administration Division at the Administrative Office of the U.S. Courts. 43 of the 58 clerks responding to a survey prefer that mortgage creditors' notices of payment change be filed on the case docket. 7 of the 43 clerks favoring the case docket suggested that CM/ECF spread the filing from the case docket to the claims docket.

09-BK-035. Hon. Thomas L. Perkins (Bankr. C.D. Ill.). By failing to limit its applicability to cases where the trustee pays the postpetition mortgage payments, this new filing and notice requirement incorrectly assumes a uniformity among bankruptcy courts that does not exist. The scope of paragraph (c) encompasses all postpetition fees, expenses, and charges, even when no payment change results and collection is not sought. This provision exceeds the scope of what may be permissibly addressed by the new rule. Issues relating to the prepetition arrearage to be "cured" and the postpetition payments to be "maintained" (at least to the extent paid by the trustee), are proper issues for the bankruptcy court. Other issues that may arise between the mortgagor and the mortgage holder are not. Paragraph (d) deals with whether the prepetition arrearage has been fully cured. Paragraph (e), which contemplates a "response" to the notice required by paragraph (d), should be limited to the same issue. In subdivision (f), the final phrase, "and paid all required postpetition amounts in full," should be deleted.

09-BK-114. The Insolvency Law Committee of the Business Law Section of the State Bar of California. Proposed Rule 3002.1 creates new and extensive information requirements for a claim secured by a mortgage on a chapter 13 debtor's home. The sanctions for failing to comply are unnecessarily harsh and invite judicial oversight that is not required or desirable.

09-BK-023. Hon. Michael E. Romero (Bankr. D. Col.) for Bankruptcy Judges Advisory Group. BJAG supports Rule 3002.1 as written, including filing payment change notices on the claims docket.

09-BK-151. Debra L. Miller. I support Rule 3002.1. The timing of the "notice of final cure payment" needs to be clarified, and standard forms for the notices required under the rule should be adopted. Mortgage servicers (and their attorneys) should be allowed to file the notices

09-BK-159. Rep. John Conyers, Jr., chair, House Committee on the Judiciary, and Rep. Steve Cohen, chair, Subcommittee on Commercial and Administrative Law. We sponsored legislation in the last Congress

and in the present Congress that, in pertinent part, would require greater disclosure and court review of claims secured by a chapter 13 debtor's principal residence.

09-BK-016 (testimony). National Association of Consumer Bankruptcy Attorneys (David B. Shaev). NACBA supports proposed new Rule 3002.1. It is absolutely necessary to prevent Chapter 13 mortgage arrearage cures from becoming ineffectual due to abusive mortgagee practices.

09-BK-037. Marie-Ann Greenberg. As drafted, the rule works best in jurisdictions where conduit payments are made by the Standing Trustee. The notice of cure should be filed at the end of the case.

09-BK-044. Mohammad Ahmed Faruqi. The rule should provide for review of the veracity of creditors' claims for more fees.

09-BK-053. Shmuel Klein. The cure notice for mortgage claims must also include how the amount was calculated and include the documentary basis for each charge claimed.

09-BK-128. Mitchell P. Goldstein. Creditors who hold a security interest in property that the debtor has stated an intention to retain (whether in a Statement of Intention or by paying directly in a chapter 13 plan) must send regular monthly statements to the debtor so that the debtor can track payments and ensure the right to retain the property. These statements should not be considered violations of the automatic stay. Mortgage companies should be required to account for postpetition payments separately from prepetition arrearage payments. The trustee payments should be applied to all amounts owed prepetition based on the proof of claim filed and allowed. The debtor payments made directly should be applied to post-petition obligations only (and not to added fees unless they comply with the new rule).

09-BK-129. National Association of Consumer Bankruptcy Attorneys. Proposed Rule 3002.1 is absolutely necessary to prevent chapter 13 mortgage cures from becoming totally ineffectual due to abusive mortgage servicing practices. It should provide that fees that are not disclosed as required are waived. Although there is some dispute about whether Rule 2016 currently requires an application before such fees can be recovered, an amendment to the new rule can make it clear that it is required. The rule should provide that creditors may not charge attorney's fees for the required notices of fees and payment changes which they already had a pre-existing obligation to disclose under nonbankruptcy law. Outside of bankruptcy,

such notices are routinely sent by mortgage servicers without attorney involvement or additional attorney's fees.

09-BK-004. Hon. Marvin Isgur (Bankr. S.D. Tex.). Rule 3002.1(c) should be clarified as to whether the expense notice is applicable only in trustee-pay cases or in all cases in which there is a home mortgage. The procedure in Rule 3002.1(d) should be changed to a motion to determine that the debtor is current on all ongoing mortgage payments and has cured all arrearages. The court's order in response should have res judicata effect in any subsequent state or federal litigation.

09-BK-041. National Association of Chapter 13 Trustees. NACTT concurs with Judge Isgur's suggestion that, in order to obtain the res judicata effect of an order, the notice of final cure payment under Rule 3002.1(d) should be permitted by motion rather than notice. Because the difficulties experienced by trustees with mortgages relate mostly to postpetition, ongoing payments, resulting from the fees, charges, advances, escrow adjustments, interest rate adjustments, and other modifications made during the pendency of the case, the critical question is not whether the prepetition arrearage has been cured, but whether the payments made during the plan, either by the trustee or the debtor, are current at the time of the request. Thus, timing the motion or notice of cure to 30 days after the pre-petition arrearage has been cured will not satisfy the difficulty that may be encountered if the chapter 13 plan lasts another year or two after the pre-petition arrearages are cured.

09-BK-157. National Association of Chapter Thirteen Trustees' Mortgage Liaison Committee. Proposed Bankruptcy Rules 3001 and 3002.1 are consistent with the spirit of the Best Practices developed by the NACTT Mortgage Liaison Committee, and the Committee advocates the adoption of these Rules. These Rules will allow consistency on a national basis. While many of the large servicers have the technology and ability to run an escrow analysis on a date certain (as of the date of the filing of the bankruptcy), some smaller servicers do not have this ability. HELOC and DSI loans seem to be problematic with the rule as proposed. Some loan payments adjust every 30 days, and in the case of a DSI loan may have interest rate changes on a daily basis.

09-BK-040. Prof. Katherine Porter (Visiting Associate Professor at University of California-Berkeley Law School). I support proposed Rule 3002.1. The frustration of consumer debtors' attorneys, creditors' attorneys, trustees, and judges about the administration of mortgage claims in chapter 13 cases is manifest. Creditors, just as much as debtors, would be

well-served by the uniformity that proposed Rule 3002.1 would bring to case administration. Official Forms should be developed to accompany the proposed rules.

09-BK-054. Nancy B. Clark. I have had clients call after a successful chapter 13 to inform me that the mortgage company has scheduled a sale of their home. This is caused mostly by the mortgage servicers' accounting systems. Chapter 13 bankruptcy has been around for a long enough period for servicers to set up systems that will account for payments correctly, but they have not changed those systems because it is more profitable for them to collect unwarranted fees after a bankruptcy than it is to play by the rules.

09-BK-055. J. Thomas Black. In one case I was reviewing yesterday, the homeowner just completed her chapter 13 payments (no discharge yet), and her mortgage servicer changed. The new servicer has already added over \$700 in "junk fees" that were not authorized by the bankruptcy court. With our local rule, I will be able to challenge the imposition of those fees with clear authority to do so; without it, it would be an uphill battle to get them removed, if possible at all. In another case, the debtor completed his plan, and under local procedures the trustee filed a Motion to Deem Mortgage Current, which was granted. Again, the servicer changed (this time after discharge), and the new servicer insisted that the debtor owed one more payment than he should have. The payments are \$5665 each. With the Order Deeming Mortgage Current, we were able to prevail upon the new servicer to give credit for the payment. Without the order, we would have had to bring litigation in the bankruptcy court, and the outcome would have been uncertain, but costly for everyone to sort out.

09-BK-060. Christopher Smith. We often encounter difficulty in crafting a plan to deal with the home mortgage claim because it is a challenge to ascertain the source of the charges, or even more alarming, it is difficult to determine how the lender calculated the monthly payment. Often these numbers do not comport with what the debtor was paying prepetition. We need to give debtors some assurance when they emerge from a plan that they will be current, since this is usually the primary purpose of the chapter 13 filing.

09-BK-078. Ken Rannick. It is sometimes necessary to have a debtor re-enter a chapter 13 or file a subsequent case to clean up a discrepancy in the previous case. The proposed rule will establish a mechanism for the court to determine at the end of the case whether the mortgage has been cured, and precludes a creditor from introducing evidence of any fees or charges

for which notice was not provided under the rule. This exit accounting is great.

09-BK-085. Richard Croak. Several years ago I had a client who had very limited means but scrupulously made his chapter 13 payments and mortgage payments. He had a small default on his mortgage payments when he filed, but remained current thereafter. He died unexpectedly and the following month the mortgage holder moved to modify the stay and foreclose since the case was no longer feasible. The client's executor asked that I keep the case open temporarily, as she had a pending sale for the debtor's house. When the mortgage holder's payoff letter arrived in the closing attorney's office, he called me to say the amount was \$15,000 higher than expected. We closed on the house on the bankruptcy court's order and escrowed the disputed amount. It took months of litigation before the court finally found that the bank had nothing to support its additional charges. It had been simply adding charges for property taxes that they had not paid, for inspections never made, and defaults that had not occurred. Had the debtor lived, he would have been confronted by these at the end of his case. His untimely death exposed the bank's erroneous charges.

09-BK-100. Mark Cornell. I am constantly dealing with issues related to mystery charges and fees from the mortgage lender. Often these fees are related to attorneys fees never disclosed to the court or to the debtor during the course of the case. The common response when questioned about these fees is, "We are the lender; we can do what we want." The procedures in proposed Rule 3002.1 would avoid future litigation and are not a burden on creditors.

09-BK-103. Aaron C. Amore. All too often I see all sorts of illegal fees included in a proof of claim, including attorneys fees, property preservation fees, proof of claim fees, processing fees, and a wide range of other miscellaneous fees that are not considered principal and/or interest. Mortgage servicers will often apply post-filing payments to the earliest debt and not consider them as pass-through payments on the current obligation. This results in an inappropriate motion for relief from the stay, even though the debtor is current on his monthly payments to the trustee in a mortgage pass-through case. Debtors then need to respond, the trustee often files a response, and the court has to take the matter up in due course. These motions cause confusion and delay.

09-BK-106. Jeanne Hovenden. Mortgage lenders do not want to provide detailed payment histories on the loans, and they do not want the debtors or the courts to see the amount of added, unnecessary costs being charged for

broker price opinions, drive-by “appraisals,” property maintenance drive-by’s, etc, during chapter 13 cases. Many of these “services” are obtained every month. When multiplied by the number of homes in chapter 13 nationwide, it becomes a wonderful profit center for the lenders. Forcing them to disclose the fees will at least partially level the playing field so that debtors can challenge the necessity of these costs during the bankruptcy case. Right now, there is no mechanism in the bankruptcy code short of a full blown adversary proceeding to get these disclosed. That leaves the debtor, who is required by the Code and the courts to devote all available excess income to their chapter 13 payment, in the position of being unable to afford to pay counsel to bring the adversary proceeding. The debtor then hopes that the court will award attorney’s fees to cover the cost of ferreting out information that the debtor should be receiving as the case unfolds. It is also critical for the court to have a way of determining at the end of a chapter 13 case that the mortgage loan has been brought current. I have had to file subsequent chapter 13 cases because of the fees that were assessed without contemporaneous disclosure to the debtor during the first case.

The proposed 180-day time for providing information concerning fees, expenses, and charges is too long. The requirement should be shortened to 90 days. The mortgage company can provide the reports to the court, the debtor, and counsel at the same time it pays the vender for the service, which likely happens within 90 days of the service being provided.

09-BK-111. G. Bruce Kuehne. It is unfortunately true that there is no way we can know (except by making a RESPA request in every case, which is a hardship on both us and the lender) whether a mortgage debt has been cured in a chapter 13 case. We also have no efficient way to know whether the lender is adding on late charges each month during the plan. It is a huge shock to debtors when they complete their plan, assuming they are in good standing, only to learn that they still owe thousands of dollars in fees to the mortgage lender.

09-BK-117. Lex A. Rogerson, Jr. One of the most common ways in which a debtor may be frustrated in the attempt to bring a home mortgage current is by the mortgage holder’s assessment of fees and charges during the pendency of the bankruptcy. The debtor may have made all plan payments and may believe he has made all postpetition mortgage payments, but upon discharge he learns that the mortgage holder contends he still owes charges that accrued during the case. The holder typically has not notified the debtor of these charges, usually contending the automatic stay prohibits such notice. The propriety of such charges should be determined in bankruptcy court while the case is pending, not in state court thereafter.

Bankruptcy judges understand how chapter 13 requires mortgage holders to apply payments; state court judges do not. State courts are likewise ill-equipped to determine whether it was necessary for the mortgagee's attorney to take a given step in a bankruptcy case or whether the associated fees are reasonable.

09-BK-136. Annabelle Patterson. I strongly support proposed Rule 3002.1 as essential to curbing systematic abuse by mortgage servicers. Common abuses include holding trustee payments in suspense accounts for long periods of time and failing to apply trustee payments to principal and interest payments due; using ongoing trustee payments to pay fees and costs ahead of principal and interest payments; using ongoing trustee payments to pay fees and costs that were never disclosed to the court; and manipulating escrow accounts and diverting escrow payments to pay fees and costs. The failure of servicers to notify the parties of changes in the ongoing monthly payments due to escrow changes or interest rate adjustments is particularly problematic.

09-BK-158. Erin B. Shank. I strongly support the proposed amendments that would require mortgage companies to notify borrowers in bankruptcy before adding fees and charges to their loans. This requirement is very much needed. I have numerous clients who exit bankruptcy after making all of their payments only to learn that their mortgage company has added numerous fees to their loan that they never knew of during their bankruptcy case. They exit bankruptcy with a big bill on their mortgage, instead of with a fresh start and a current mortgage.

Comments of other members of the consumer bankruptcy bar expressing support for proposed Rule 3002.1

- 09-BK-030. Barbara Stief**
- 09-BK-031. Loraine Troyer**
- 09-BK-032. William J. Neild**
- 09-BK-038. Lucien A. Morin**
- 09-BK-039. Frank Cahill**
- 09-BK-042. Brett Weiss**
- 09-BK-045. John R. Cantrell, Jr.**
- 09-BK-046. Jonathan Leventhal**
- 09-BK-047. David Rao**
- 09-BK-048. Pernell McGuire**
- 09-BK-049. Paul Gandy**
- 09-BK-050. Ken Keeling**
- 09-BK-051. Bernd G. Stittleburg**

09-BK-052. David H. Abrams
09-BK-056. Richard C. Foote
09-BK-057. Pamela Simmons-Beasley
09-BK-058. Scott Logan
09-BK-059. Ann N. Nguyen
09-BK-061. Seth D. McCloskey
09-BK-062. Glenda J. Gray
09-BK-065. Edgar P. Petti
09-BK-066. Patricia Johnson
09-BK-067. Cristina Rodriguez
09-BK-068. Robert R. Cloar
09-BK-071. Fred Martens
09-BK-073. Ruben F. Arizmendi
09-BK-074. Sharon L. Smith
09-BK-075. Charles Farrell
09-BK-076. Edward Shaw
09-BK-077. Heidi McLeod
09-BK-079. Barbara L. Franklin
09-BK-081. Howard Iken
09-BK-082. Stephen Manning
09-BK-083. Brad Eaby
09-BK-084. Richard Nemeth
09-BK-087. Jim Green
09-BK-088. Penny Souhrada
09-BK-089. Bill Turner
09-BK-091. G. Craig Hubble
09-BK-092. John M. Caraway, Jr.
09-BK-093. Bob Haeger
09-BK-095. Steve Rodriguez
09-BK-096. Robert Pullis
09-BK-097. Brett Weiss
09-BK-098. Alan Ramos
09-BK-099. Gerald McNally, Jr.
09-BK-101. Charles E. Stalnaker
09-BK-102. Kenneth E. Lenz
09-BK-105. Larry Regan
09-BK-107. Sonja Ann Becker
09-BK-108. Deanna Tubandt
09-BK-109. Richard K. Gustafson, II
09-BK-110. Bruce H. Williams
09-BK-112. Troy R. Jensen
09-BK-113. Richard Bushman
09-BK-118. John Francis Murphy

09-BK-119. Melvin N. Eichelbaum
09-BK-121. Stephen M. Goldberg
09-BK-122. Stan Lockhart
09-BK-125. Debra Voltz-Miller
09-BK-126. Jonathan C. Becker
09-BK-138. Rosemary Williams
09-BK-154. Joseph M. Romano
09-BK-155. Richard D. Shepard
09-BK-156. William L. Fava

Rule 4004. Grant or Denial of Discharge

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(b) EXTENSION OF TIME.

(1) On motion of any party in interest, after notice and hearing on notice, the court may for cause extend the time to file a complaint objecting to discharge. Except as provided in subdivision (b)(2), the motion shall be filed before the time has expired.

(2) A motion to extend the time to object to discharge may be filed after the time for objection has expired and before discharge is granted if (A) the objection is based on facts that, if learned after the discharge, would provide a basis for revocation under § 727(d) of the Code, and (B) the movant did not have knowledge of those facts in time to permit an objection. The motion shall be filed promptly after the movant discovers the facts on which the objection is based.

COMMITTEE NOTE

Subdivision (b) is amended to allow a party, under certain specified circumstances, to seek an extension of time to object to discharge after the time for filing has expired. This amendment addresses the situation in which there is a gap between the expiration of the time for objecting to discharge and the entry of the discharge order. If, during that period, a party discovers facts that would provide grounds for revocation of discharge, it may not be able to seek revocation under § 727(d) of the Code because the facts would have been known prior to the granting of the discharge. Furthermore, during that period the debtor may commit an act that provides a basis for both denial and revocation of the discharge. In those situations, subdivision (b)(2) allows a party to file a motion for an extension of time to object to discharge based on those facts so long as they were not known to the party before expiration of the deadline for objecting. The motion must be filed promptly after discovery of those facts.

Changes Made After Publication

Following publication minor stylistic changes were made to the language of the rule, and a sentence was added to the Committee Note to clarify that the rule applies whenever the debtor commits an act during the gap period that provides a basis for both denial and revocation of the discharge.

Summary of Public Comment

09-BK-001. Hon. Wesley Steen (Bankr. S.D. Tex.). The statute allows denial of discharge if the act occurs after the deadline for objecting to discharge, provided that the discharge has not yet been entered. I believe that the rule (even with the proposed change) is more restrictive than the statute and denies relief that the statute authorizes. Therefore, unless the rule is amended even further, it is my view that the rule is invalid.

09-BK-004. Hon. Marvin Isgur (Bankr. S.D. Tex.). This is an excellent change to this rule to address the current “gap period” discharge problem. I will note that my colleague, Wesley Steen, recently confronted a related problem that could also be addressed by this rule. See *In re Shankman*,

2009 WL 2855731 (Bankr. S.D. Tex. 2009). For the reasons set forth by Judge Steen, I suggest that the language be broadened to address the concerns raised in *Shankman*.

09-BK-114. The Insolvency Law Committee of the Business Law Section of the State Bar of California. The proposed changes to this rule would enhance the ability of creditors to extend the time to file a complaint objecting to a debtor's discharge. The ILC has confirmed that the proposed amendment of Rule 4004 was drafted to address grounds for revocation of discharge beyond Bankruptcy Code § 727(d)(1) – that the discharge was obtained through the fraud of the debtor and the requesting party did not know of such fraud until after the granting of such discharge. The proposed Committee Note, however, seems to refer only to section 727(d)(1). The ILC respectfully submits that the comment should be amended to explain the full scope of the provision.

Rule 6003. Interim and Final Relief Immediately Following the Commencement of the Case – Applications for Employment; Motions for Use, Sale, or Lease of Property; and Motions for Assumption or Assignment of Executory Contracts

1 Except to the extent that relief is necessary to avoid
2 immediate and irreparable harm, the court shall not, within 21 days
3 after the filing of the petition, ~~grant relief~~ issue an order granting
4 regarding the following:
5 (a) an application under Rule 2014;
6 (b) a motion to use, sell, lease, or otherwise incur an
7 obligation regarding property of the estate, including a motion to
8 pay all or part of a claim that arose before the filing of the petition,
9 but not a motion under Rule 4001; ~~and or~~

10 (c) a motion to assume or assign an executory contract or
11 unexpired lease in accordance with § 365.

COMMITTEE NOTE

The rule is amended to clarify that it limits the timing of the entry of certain orders, but does not prevent the court from providing an effective date for such an order that may relate back to the time of the filing of the application or motion, or to some other date. For example, while the rule prohibits, absent immediate and irreparable harm, the court from authorizing the employment of counsel during the first 21 days of a case, it does not prevent the court from providing in an order entered after expiration of the 21-day period that the relief requested in the motion or application is effective as of a date earlier than the issuance of the order. Nor does it prohibit the filing of an application or motion for relief prior to expiration of the 21-day period. Nothing in the rule prevents a professional from representing the trustee or a debtor in possession pending the approval of an application for the approval of the employment under Rule 2014.

The amendment also clarifies that the scope of the rule is limited to granting the specifically identified relief set out in the subdivisions of the rule. Deleting “regarding” from the rule clarifies that the rule does not prohibit the court from entering orders in the first 21 days of the case that may relate to the motions and applications set out in (a), (b), and (c); it is only prohibited from granting the relief requested by those motions or applications. For example, in the first 21 days of the case, the court could grant the relief requested in a motion to establish bidding procedures for the sale of property of the estate, but it could not, absent immediate and irreparable harm, grant a motion to approve the sale of property.

Changes Made After Publication

Minor stylistic changes were made to the Committee Note following publication.

Summary of Public Comment

No comments were submitted on proposed Rule 6003 after its publication.

Official Forms 22A, 22B, 22C

Official Forms 22A, 22B, and 22C, with the amendments highlighted, are included in the pages that follow.

Changes Made After Publication

No changes were made to the forms after publication

Summary of Public Comment

09-BK-032. William J. Neild. I have no objection to clarifying the “family size” issue, but I suggest another change to Form 22A that the Committee should consider. Individuals who are not self-employed should be allowed to deduct certain expenses incurred in the production of income.

Official Forms 20A and 20B

Official Forms 20A and 20B, with the amendments highlighted, are included in subsequent pages. Because the changes are made to conform to existing statutory and rule provisions, final approval is sought without publication.

United States Bankruptcy Court

District of _____

In re _____)
[Set forth here all names including married, maiden, and)
trade names used by debtor within last 8 years.])
 Debtor _____) Case No. _____)
 Address _____)
 _____) Chapter _____)
 Last four digits of Social Security or Individual Tax-payer Identification)
 (ITIN) No(s), (if any): _____)
 _____)
 Employer's Tax Identification (EIN) No(s), (if any): _____)
 _____)

NOTICE OF [MOTION TO] [OBJECTION TO]

_____ has filed papers with the court to [relief sought in motion or objection].

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to [relief sought in motion or objection], or if you want the court to consider your views on the [motion] [objection], then on or before (date), you or your attorney must:

[File with the court a written request for a hearing {or, if the court requires a written response, an answer, explaining your position} at:

{address of the bankruptcy clerk's office}

If you mail your {request} {response} to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above.

You must also mail a copy to:

{movant's attorney's name and address}

{names and addresses of others to be served}]

[Attend the hearing scheduled to be held on (date), (year), at _____ a.m./p.m. in Courtroom _____, United States Bankruptcy Court, {address}.]

[Other steps required to oppose a motion or objection under local rule or court order.]

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Date: _____

Signature: _____

Name:

Address

United States Bankruptcy Court

District of _____

In re _____)
[Set forth here all names including married, maiden, and)
trade names used by debtor within last 8 years.])
 Debtor) Case No. _____)
 Address _____)
 _____)
 Last four digits of Social Security or Individual Tax-payer Identification)
 (ITIN) No(s), (if any): _____)
 _____)
 Employer's Tax Identification (EIN) No(s), (if any): _____)
 _____)

NOTICE OF OBJECTION TO CLAIM

_____ has filed an objection to your claim in this bankruptcy case.

Your claim may be reduced, modified, or eliminated. You should read these papers carefully and discuss them with your attorney, if you have one.

If you do not want the court to eliminate or change your claim, then on or before (date), you or your lawyer must:

{If required by local rule or court order.}

[File with the court a written response to the objection, explaining your position, at:

{address of the bankruptcy clerk's office}

If you mail your response to the court for filing, you must mail it early enough so that the court will receive it on or before the date stated above.

You must also mail a copy to:

{objector's attorney's name and address}

{names and addresses of others to be served}]

Attend the hearing on the objection, scheduled to be held on (date), (year), at ___ a.m./p.m. in Courtroom ____, United States Bankruptcy Court, {address}.

If you or your attorney do not take these steps, the court may decide that you do not oppose the objection to your claim.

Date: _____

Signature: _____
Name:
Address

COMMITTEE NOTE

The form is amended to require that the title of the case include all names used by the debtor within the last eight years. This change conforms to the 2005 amendment of § 727(a)(8), which extended from six years to eight years the period during which a debtor is barred from receiving successive discharges. In conformity with Rule 9037, the filer is directed to provide only the last four digits of any individual debtor's taxpayer-identification number.

In re _____
Debtor(s)

Case Number: _____
(If known)

According to the information required to be entered on this statement (check one box as directed in Part I, III, or VI of this statement):

- The presumption arises.
- The presumption does not arise.
- The presumption is temporarily inapplicable.

CHAPTER 7 STATEMENT OF CURRENT MONTHLY INCOME AND MEANS-TEST CALCULATION

In addition to Schedules I and J, this statement must be completed by every individual chapter 7 debtor. If none of the exclusions in Part I applies, joint debtors may complete one statement only. If any of the exclusions in Part I applies, joint debtors should complete separate statements if they believe this is required by § 707(b)(2)(C).

Part I. MILITARY AND NON-CONSUMER DEBTORS

1A	<p>Disabled Veterans. If you are a disabled veteran described in the Declaration in this Part IA, (1) check the box at the beginning of the Declaration, (2) check the box for “The presumption does not arise” at the top of this statement, and (3) complete the verification in Part VIII. Do not complete any of the remaining parts of this statement.</p> <p><input type="checkbox"/> Declaration of Disabled Veteran. By checking this box, I declare under penalty of perjury that I am a disabled veteran (as defined in 38 U.S.C. § 3741(1)) whose indebtedness occurred primarily during a period in which I was on active duty (as defined in 10 U.S.C. § 101(d)(1)) or while I was performing a homeland defense activity (as defined in 32 U.S.C. § 901(1)).</p>
1B	<p>Non-consumer Debtors. If your debts are not primarily consumer debts, check the box below and complete the verification in Part VIII. Do not complete any of the remaining parts of this statement.</p> <p><input type="checkbox"/> Declaration of non-consumer debts. By checking this box, I declare that my debts are not primarily consumer debts.</p>
1C	<p>Reservists and National Guard Members; active duty or homeland defense activity. Members of a reserve component of the Armed Forces and members of the National Guard who were called to active duty (as defined in 10 U.S.C. § 101(d)(1)) after September 11, 2001, for a period of at least 90 days, or who have performed homeland defense activity (as defined in 32 U.S.C. § 901(1)) for a period of at least 90 days, are excluded from all forms of means testing during the time of active duty or homeland defense activity and for 540 days thereafter (the “exclusion period”). If you qualify for this temporary exclusion, (1) check the appropriate boxes and complete any required information in the Declaration of Reservists and National Guard Members below, (2) check the box for “The presumption is temporarily inapplicable” at the top of this statement, and (3) complete the verification in Part VIII. During your exclusion period you are not required to complete the balance of this form, but you must complete the form no later than 14 days after the date on which your exclusion period ends, unless the time for filing a motion raising the means test presumption expires in your case before your exclusion period ends.</p> <p><input type="checkbox"/> Declaration of Reservists and National Guard Members. By checking this box and making the appropriate entries below, I declare that I am eligible for a temporary exclusion from means testing because, as a member of a reserve component of the Armed Forces or the National Guard</p> <p style="margin-left: 40px;">a. <input type="checkbox"/> I was called to active duty after September 11, 2001, for a period of at least 90 days and <input type="checkbox"/> I remain on active duty /or/ <input type="checkbox"/> I was released from active duty on _____, which is less than 540 days before this bankruptcy case was filed;</p> <p style="text-align: center; margin-left: 40px;">OR</p> <p style="margin-left: 40px;">b. <input type="checkbox"/> I am performing homeland defense activity for a period of at least 90 days /or/ <input type="checkbox"/> I performed homeland defense activity for a period of at least 90 days, terminating on _____, which is less than 540 days before this bankruptcy case was filed.</p>

Part II. CALCULATION OF MONTHLY INCOME FOR § 707(b)(7) EXCLUSION

- 2** **Marital/filing status.** Check the box that applies and complete the balance of this part of this statement as directed.
- a. Unmarried. Complete only Column A (“Debtor’s Income”) for Lines 3-11.
 - b. Married, not filing jointly, with declaration of separate households. By checking this box, debtor declares under penalty of perjury: “My spouse and I are legally separated under applicable non-bankruptcy law or my spouse and I are living apart other than for the purpose of evading the requirements of § 707(b)(2)(A) of the Bankruptcy Code.” Complete only Column A (“Debtor’s Income”) for Lines 3-11.
 - c. Married, not filing jointly, without the declaration of separate households set out in Line 2.b above. Complete both Column A (“Debtor’s Income”) and Column B (“Spouse’s Income”) for Lines 3-11.
 - d. Married, filing jointly. Complete both Column A (“Debtor’s Income”) and Column B (“Spouse’s Income”) for Lines 3-11.

All figures must reflect average monthly income received from all sources, derived during the six calendar months prior to filing the bankruptcy case, ending on the last day of the month before the filing. If the amount of monthly income varied during the six months, you must divide the six-month total by six, and enter the result on the appropriate line.

Column A Debtor's Income	Column B Spouse's Income
--------------------------------	--------------------------------

3	Gross wages, salary, tips, bonuses, overtime, commissions.	\$	\$
----------	---	----	----

4	Income from the operation of a business, profession or farm. Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 4. If you operate more than one business, profession or farm, enter aggregate numbers and provide details on an attachment. Do not enter a number less than zero. Do not include any part of the business expenses entered on Line b as a deduction in Part V.		\$	\$	
	a.	Gross receipts			\$
	b.	Ordinary and necessary business expenses			\$
	c.	Business income			Subtract Line b from Line a

5	Rent and other real property income. Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 5. Do not enter a number less than zero. Do not include any part of the operating expenses entered on Line b as a deduction in Part V.		\$	\$	
	a.	Gross receipts			\$
	b.	Ordinary and necessary operating expenses			\$
	c.	Rent and other real property income			Subtract Line b from Line a

6	Interest, dividends and royalties.	\$	\$
----------	---	----	----

7	Pension and retirement income.	\$	\$
----------	---------------------------------------	----	----

8	Any amounts paid by another person or entity, on a regular basis, for the household expenses of the debtor or the debtor’s dependents, including child support paid for that purpose. Do not include alimony or separate maintenance payments or amounts paid by your spouse if Column B is completed. Each regular payment should be reported in only one column; if a payment is listed in Column A, do not report that payment in Column B.	\$	\$
----------	--	----	----

9	Unemployment compensation. Enter the amount in the appropriate column(s) of Line 9. However, if you contend that unemployment compensation received by you or your spouse was a benefit under the Social Security Act, do not list the amount of such compensation in Column A or B, but instead state the amount in the space below:		\$	\$
	Unemployment compensation claimed to be a benefit under the Social Security Act	Debtor \$ _____		

10	<p>Income from all other sources. Specify source and amount. If necessary, list additional sources on a separate page. Do not include alimony or separate maintenance payments paid by your spouse if Column B is completed, but include all other payments of alimony or separate maintenance. Do not include any benefits received under the Social Security Act or payments received as a victim of a war crime, crime against humanity, or as a victim of international or domestic terrorism.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:5%; text-align:center;">a.</td> <td style="width:60%;"></td> <td style="width:5%; text-align:center;">\$</td> </tr> <tr> <td style="text-align:center;">b.</td> <td></td> <td style="text-align:center;">\$</td> </tr> </table> <p>Total and enter on Line 10</p>	a.		\$	b.		\$	\$	\$
a.		\$							
b.		\$							
11	<p>Subtotal of Current Monthly Income for § 707(b)(7). Add Lines 3 thru 10 in Column A, and, if Column B is completed, add Lines 3 through 10 in Column B. Enter the total(s).</p>	\$	\$						
12	<p>Total Current Monthly Income for § 707(b)(7). If Column B has been completed, add Line 11, Column A to Line 11, Column B, and enter the total. If Column B has not been completed, enter the amount from Line 11, Column A.</p>	\$	\$						
Part III. APPLICATION OF § 707(b)(7) EXCLUSION									
13	<p>Annualized Current Monthly Income for § 707(b)(7). Multiply the amount from Line 12 by the number 12 and enter the result.</p>	\$							
14	<p>Applicable median family income. Enter the median family income for the applicable state and household size. (This information is available by family size at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)</p> <p>a. Enter debtor's state of residence: _____ b. Enter debtor's household size: _____</p>		\$						
15	<p>Application of Section 707(b)(7). Check the applicable box and proceed as directed.</p> <p><input type="checkbox"/> The amount on Line 13 is less than or equal to the amount on Line 14. Check the box for "The presumption does not arise" at the top of page 1 of this statement, and complete Part VIII; do not complete Parts IV, V, VI or VII.</p> <p><input type="checkbox"/> The amount on Line 13 is more than the amount on Line 14. Complete the remaining parts of this statement.</p>								

Complete Parts IV, V, VI, and VII of this statement only if required. (See Line 15.)

Part IV. CALCULATION OF CURRENT MONTHLY INCOME FOR § 707(b)(2)												
16	<p>Enter the amount from Line 12.</p>	\$										
17	<p>Marital adjustment. If you checked the box at Line 2.c, enter on Line 17 the total of any income listed in Line 11, Column B that was NOT paid on a regular basis for the household expenses of the debtor or the debtor's dependents. Specify in the lines below the basis for excluding the Column B income (such as payment of the spouse's tax liability or the spouse's support of persons other than the debtor or the debtor's dependents) and the amount of income devoted to each purpose. If necessary, list additional adjustments on a separate page. If you did not check box at Line 2.c, enter zero.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:5%; text-align:center;">a.</td> <td style="width:60%;"></td> <td style="width:5%; text-align:center;">\$</td> </tr> <tr> <td style="text-align:center;">b.</td> <td></td> <td style="text-align:center;">\$</td> </tr> <tr> <td style="text-align:center;">c.</td> <td></td> <td style="text-align:center;">\$</td> </tr> </table> <p>Total and enter on Line 17.</p>	a.		\$	b.		\$	c.		\$	\$	
a.		\$										
b.		\$										
c.		\$										
18	<p>Current monthly income for § 707(b)(2). Subtract Line 17 from Line 16 and enter the result.</p>	\$										
Part V. CALCULATION OF DEDUCTIONS FROM INCOME												
Subpart A: Deductions under Standards of the Internal Revenue Service (IRS)												

19A	<p>National Standards: food, clothing and other items. Enter in Line 19A the "Total" amount from IRS National Standards for Food, Clothing and Other Items for the applicable number of persons. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) The applicable number of persons is the number that would currently be allowed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support.</p>	\$																								
19B	<p>National Standards: health care. Enter in Line a1 below the amount from IRS National Standards for Out-of-Pocket Health Care for persons under 65 years of age, and in Line a2 the IRS National Standards for Out-of-Pocket Health Care for persons 65 years of age or older. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) Enter in Line b1 the applicable number of persons who are under 65 years of age, and enter in Line b2 the applicable number of persons who are 65 years of age or older. (The applicable number of persons in each age category is the number in that category that would currently be allowed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support.) Multiply Line a1 by Line b1 to obtain a total amount for persons under 65, and enter the result in Line c1. Multiply Line a2 by Line b2 to obtain a total amount for persons 65 and older, and enter the result in Line c2. Add Lines c1 and c2 to obtain a total health care amount, and enter the result in Line 19B.</p> <table border="1" style="width:100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th colspan="3" style="text-align:left;">Persons under 65 years of age</th> <th colspan="3" style="text-align:left;">Persons 65 years of age or older</th> </tr> </thead> <tbody> <tr> <td style="width:5%;">a1.</td> <td style="width:40%;">Allowance per person</td> <td style="width:15%;"></td> <td style="width:5%;">a2.</td> <td style="width:40%;">Allowance per person</td> <td style="width:15%;"></td> </tr> <tr> <td>b1.</td> <td>Number of persons</td> <td></td> <td>b2.</td> <td>Number of persons</td> <td></td> </tr> <tr> <td>c1.</td> <td>Subtotal</td> <td></td> <td>c2.</td> <td>Subtotal</td> <td></td> </tr> </tbody> </table>	Persons under 65 years of age			Persons 65 years of age or older			a1.	Allowance per person		a2.	Allowance per person		b1.	Number of persons		b2.	Number of persons		c1.	Subtotal		c2.	Subtotal		\$
Persons under 65 years of age			Persons 65 years of age or older																							
a1.	Allowance per person		a2.	Allowance per person																						
b1.	Number of persons		b2.	Number of persons																						
c1.	Subtotal		c2.	Subtotal																						
20A	<p>Local Standards: housing and utilities; non-mortgage expenses. Enter the amount of the IRS Housing and Utilities Standards; non-mortgage expenses for the applicable county and family size. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court). The applicable family size consists of the number that would currently be allowed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support.</p>	\$																								
20B	<p>Local Standards: housing and utilities; mortgage/rent expense. Enter, in Line a below, the amount of the IRS Housing and Utilities Standards; mortgage/rent expense for your county and family size (this information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court) (the applicable family size consists of the number that would currently be allowed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support); enter on Line b the total of the Average Monthly Payments for any debts secured by your home, as stated in Line 42; subtract Line b from Line a and enter the result in Line 20B. Do not enter an amount less than zero.</p> <table border="1" style="width:100%; border-collapse: collapse; margin-top: 10px;"> <tbody> <tr> <td style="width:5%;">a.</td> <td style="width:60%;">IRS Housing and Utilities Standards; mortgage/rental expense</td> <td style="width:15%; text-align:right;">\$</td> <td style="width:20%;"></td> </tr> <tr> <td>b.</td> <td>Average Monthly Payment for any debts secured by your home, if any, as stated in Line 42</td> <td style="text-align:right;">\$</td> <td></td> </tr> <tr> <td>c.</td> <td>Net mortgage/rental expense</td> <td></td> <td style="text-align:right;">Subtract Line b from Line a.</td> </tr> </tbody> </table>	a.	IRS Housing and Utilities Standards; mortgage/rental expense	\$		b.	Average Monthly Payment for any debts secured by your home, if any, as stated in Line 42	\$		c.	Net mortgage/rental expense		Subtract Line b from Line a.	\$												
a.	IRS Housing and Utilities Standards; mortgage/rental expense	\$																								
b.	Average Monthly Payment for any debts secured by your home, if any, as stated in Line 42	\$																								
c.	Net mortgage/rental expense		Subtract Line b from Line a.																							
21	<p>Local Standards: housing and utilities; adjustment. If you contend that the process set out in Lines 20A and 20B does not accurately compute the allowance to which you are entitled under the IRS Housing and Utilities Standards, enter any additional amount to which you contend you are entitled, and state the basis for your contention in the space below:</p> <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/>	\$																								

22A		<p>Local Standards: transportation; vehicle operation/public transportation expense. You are entitled to an expense allowance in this category regardless of whether you pay the expenses of operating a vehicle and regardless of whether you use public transportation.</p> <p>Check the number of vehicles for which you pay the operating expenses or for which the operating expenses are included as a contribution to your household expenses in Line 8.</p> <p><input type="checkbox"/> 0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 or more.</p> <p>If you checked 0, enter on Line 22A the "Public Transportation" amount from IRS Local Standards: Transportation. If you checked 1 or 2 or more, enter on Line 22A the "Operating Costs" amount from IRS Local Standards: Transportation for the applicable number of vehicles in the applicable Metropolitan Statistical Area or Census Region. (These amounts are available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)</p>	\$									
22B		<p>Local Standards: transportation; additional public transportation expense. If you pay the operating expenses for a vehicle and also use public transportation, and you contend that you are entitled to an additional deduction for your public transportation expenses, enter on Line 22B the "Public Transportation" amount from IRS Local Standards: Transportation. (This amount is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)</p>	\$									
23		<p>Local Standards: transportation ownership/lease expense; Vehicle 1. Check the number of vehicles for which you claim an ownership/lease expense. (You may not claim an ownership/lease expense for more than two vehicles.)</p> <p><input type="checkbox"/> 1 <input type="checkbox"/> 2 or more.</p> <p>Enter, in Line a below, the "Ownership Costs" for "One Car" from the IRS Local Standards: Transportation (available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court); enter in Line b the total of the Average Monthly Payments for any debts secured by Vehicle 1, as stated in Line 42; subtract Line b from Line a and enter the result in Line 23. Do not enter an amount less than zero.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:5%; text-align:center;">a.</td> <td style="width:60%;">IRS Transportation Standards, Ownership Costs</td> <td style="width:10%; text-align:right;">\$</td> </tr> <tr> <td style="text-align:center;">b.</td> <td>Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 42</td> <td style="text-align:right;">\$</td> </tr> <tr> <td style="text-align:center;">c.</td> <td>Net ownership/lease expense for Vehicle 1</td> <td style="text-align:right;">Subtract Line b from Line a.</td> </tr> </table>	a.	IRS Transportation Standards, Ownership Costs	\$	b.	Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 42	\$	c.	Net ownership/lease expense for Vehicle 1	Subtract Line b from Line a.	\$
a.	IRS Transportation Standards, Ownership Costs	\$										
b.	Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 42	\$										
c.	Net ownership/lease expense for Vehicle 1	Subtract Line b from Line a.										
24		<p>Local Standards: transportation ownership/lease expense; Vehicle 2. Complete this Line only if you checked the "2 or more" Box in Line 23.</p> <p>Enter, in Line a below, the "Ownership Costs" for "One Car" from the IRS Local Standards: Transportation (available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court); enter in Line b the total of the Average Monthly Payments for any debts secured by Vehicle 2, as stated in Line 42; subtract Line b from Line a and enter the result in Line 24. Do not enter an amount less than zero.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:5%; text-align:center;">a.</td> <td style="width:60%;">IRS Transportation Standards, Ownership Costs</td> <td style="width:10%; text-align:right;">\$</td> </tr> <tr> <td style="text-align:center;">b.</td> <td>Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 42</td> <td style="text-align:right;">\$</td> </tr> <tr> <td style="text-align:center;">c.</td> <td>Net ownership/lease expense for Vehicle 2</td> <td style="text-align:right;">Subtract Line b from Line a.</td> </tr> </table>	a.	IRS Transportation Standards, Ownership Costs	\$	b.	Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 42	\$	c.	Net ownership/lease expense for Vehicle 2	Subtract Line b from Line a.	\$
a.	IRS Transportation Standards, Ownership Costs	\$										
b.	Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 42	\$										
c.	Net ownership/lease expense for Vehicle 2	Subtract Line b from Line a.										
25		<p>Other Necessary Expenses: taxes. Enter the total average monthly expense that you actually incur for all federal, state and local taxes, other than real estate and sales taxes, such as income taxes, self-employment taxes, social-security taxes, and Medicare taxes. Do not include real estate or sales taxes.</p>	\$									
26		<p>Other Necessary Expenses: involuntary deductions for employment. Enter the total average monthly payroll deductions that are required for your employment, such as retirement contributions, union dues, and uniform costs. Do not include discretionary amounts, such as voluntary 401(k) contributions.</p>	\$									
27		<p>Other Necessary Expenses: life insurance. Enter total average monthly premiums that you actually pay for term life insurance for yourself. Do not include premiums for insurance on your dependents, for whole life or for any other form of insurance.</p>	\$									
28		<p>Other Necessary Expenses: court-ordered payments. Enter the total monthly amount that you are required to pay pursuant to the order of a court or administrative agency, such as spousal or child support payments. Do not include payments on past due obligations included in Line 44.</p>	\$									

29	Other Necessary Expenses: education for employment or for a physically or mentally challenged child. Enter the total average monthly amount that you actually expend for education that is a condition of employment and for education that is required for a physically or mentally challenged dependent child for whom no public education providing similar services is available.	\$
30	Other Necessary Expenses: childcare. Enter the total average monthly amount that you actually expend on childcare—such as baby-sitting, day care, nursery and preschool. Do not include other educational payments.	\$
31	Other Necessary Expenses: health care. Enter the total average monthly amount that you actually expend on health care that is required for the health and welfare of yourself or your dependents, that is not reimbursed by insurance or paid by a health savings account, and that is in excess of the amount entered in Line 19B. Do not include payments for health insurance or health savings accounts listed in Line 34.	\$
32	Other Necessary Expenses: telecommunication services. Enter the total average monthly amount that you actually pay for telecommunication services other than your basic home telephone and cell phone service—such as pagers, call waiting, caller id, special long distance, or internet service—to the extent necessary for your health and welfare or that of your dependents. Do not include any amount previously deducted.	\$
33	Total Expenses Allowed under IRS Standards. Enter the total of Lines 19 through 32.	\$

Subpart B: Additional Living Expense Deductions
Note: Do not include any expenses that you have listed in Lines 19-32

34	<p>Health Insurance, Disability Insurance, and Health Savings Account Expenses. List the monthly expenses in the categories set out in lines a-c below that are reasonably necessary for yourself, your spouse, or your dependents.</p> <table border="1" style="width: 100%;"> <tr> <td style="width: 5%;">a.</td> <td style="width: 75%;">Health Insurance</td> <td style="width: 20%; text-align: right;">\$</td> </tr> <tr> <td>b.</td> <td>Disability Insurance</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>c.</td> <td>Health Savings Account</td> <td style="text-align: right;">\$</td> </tr> </table> <p>Total and enter on Line 34</p> <p>If you do not actually expend this total amount, state your actual total average monthly expenditures in the space below: \$ _____</p>	a.	Health Insurance	\$	b.	Disability Insurance	\$	c.	Health Savings Account	\$	\$
a.	Health Insurance	\$									
b.	Disability Insurance	\$									
c.	Health Savings Account	\$									
35	Continued contributions to the care of household or family members. Enter the total average actual monthly expenses that you will continue to pay for the reasonable and necessary care and support of an elderly, chronically ill, or disabled member of your household or member of your immediate family who is unable to pay for such expenses.	\$									
36	Protection against family violence. Enter the total average reasonably necessary monthly expenses that you actually incurred to maintain the safety of your family under the Family Violence Prevention and Services Act or other applicable federal law. The nature of these expenses is required to be kept confidential by the court.	\$									
37	Home energy costs. Enter the total average monthly amount, in excess of the allowance specified by IRS Local Standards for Housing and Utilities, that you actually expend for home energy costs. You must provide your case trustee with documentation of your actual expenses, and you must demonstrate that the additional amount claimed is reasonable and necessary.	\$									
38	Education expenses for dependent children less than 18. Enter the total average monthly expenses that you actually incur, not to exceed \$137.50 per child, for attendance at a private or public elementary or secondary school by your dependent children less than 18 years of age. You must provide your case trustee with documentation of your actual expenses, and you must explain why the amount claimed is reasonable and necessary and not already accounted for in the IRS Standards.	\$									
39	Additional food and clothing expense. Enter the total average monthly amount by which your food and clothing expenses exceed the combined allowances for food and clothing (apparel and services) in the IRS National Standards, not to exceed 5% of those combined allowances. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) You must demonstrate that the additional amount claimed is reasonable and necessary.	\$									

40	Continued charitable contributions. Enter the amount that you will continue to contribute in the form of cash or financial instruments to a charitable organization as defined in 26 U.S.C. § 170(c)(1)-(2).	\$
41	Total Additional Expense Deductions under § 707(b). Enter the total of Lines 34 through 40	\$

Subpart C: Deductions for Debt Payment

42	<p>Future payments on secured claims. For each of your debts that is secured by an interest in property that you own, list the name of the creditor, identify the property securing the debt, state the Average Monthly Payment, and check whether the payment includes taxes or insurance. The Average Monthly Payment is the total of all amounts scheduled as contractually due to each Secured Creditor in the 60 months following the filing of the bankruptcy case, divided by 60. If necessary, list additional entries on a separate page. Enter the total of the Average Monthly Payments on Line 42.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 25%;">Name of Creditor</th> <th style="width: 30%;">Property Securing the Debt</th> <th style="width: 15%;">Average Monthly Payment</th> <th style="width: 25%;">Does payment include taxes or insurance?</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">a.</td> <td></td> <td></td> <td style="text-align: right;">\$</td> <td style="text-align: center;"><input type="checkbox"/> yes <input type="checkbox"/> no</td> </tr> <tr> <td style="text-align: center;">b.</td> <td></td> <td></td> <td style="text-align: right;">\$</td> <td style="text-align: center;"><input type="checkbox"/> yes <input type="checkbox"/> no</td> </tr> <tr> <td style="text-align: center;">c.</td> <td></td> <td></td> <td style="text-align: right;">\$</td> <td style="text-align: center;"><input type="checkbox"/> yes <input type="checkbox"/> no</td> </tr> <tr> <td></td> <td></td> <td></td> <td style="text-align: right;">Total: Add Lines a, b and c.</td> <td></td> </tr> </tbody> </table>				Name of Creditor	Property Securing the Debt	Average Monthly Payment	Does payment include taxes or insurance?	a.			\$	<input type="checkbox"/> yes <input type="checkbox"/> no	b.			\$	<input type="checkbox"/> yes <input type="checkbox"/> no	c.			\$	<input type="checkbox"/> yes <input type="checkbox"/> no				Total: Add Lines a, b and c.		\$
	Name of Creditor	Property Securing the Debt	Average Monthly Payment	Does payment include taxes or insurance?																									
a.			\$	<input type="checkbox"/> yes <input type="checkbox"/> no																									
b.			\$	<input type="checkbox"/> yes <input type="checkbox"/> no																									
c.			\$	<input type="checkbox"/> yes <input type="checkbox"/> no																									
			Total: Add Lines a, b and c.																										
43	<p>Other payments on secured claims. If any of debts listed in Line 42 are secured by your primary residence, a motor vehicle, or other property necessary for your support or the support of your dependents, you may include in your deduction 1/60th of any amount (the "cure amount") that you must pay the creditor in addition to the payments listed in Line 42, in order to maintain possession of the property. The cure amount would include any sums in default that must be paid in order to avoid repossession or foreclosure. List and total any such amounts in the following chart. If necessary, list additional entries on a separate page.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 25%;">Name of Creditor</th> <th style="width: 30%;">Property Securing the Debt</th> <th style="width: 40%;">1/60th of the Cure Amount</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">a.</td> <td></td> <td></td> <td style="text-align: right;">\$</td> </tr> <tr> <td style="text-align: center;">b.</td> <td></td> <td></td> <td style="text-align: right;">\$</td> </tr> <tr> <td style="text-align: center;">c.</td> <td></td> <td></td> <td style="text-align: right;">\$</td> </tr> <tr> <td></td> <td></td> <td></td> <td style="text-align: right;">Total: Add Lines a, b and c</td> </tr> </tbody> </table>				Name of Creditor	Property Securing the Debt	1/60th of the Cure Amount	a.			\$	b.			\$	c.			\$				Total: Add Lines a, b and c	\$					
	Name of Creditor	Property Securing the Debt	1/60th of the Cure Amount																										
a.			\$																										
b.			\$																										
c.			\$																										
			Total: Add Lines a, b and c																										
44	<p>Payments on prepetition priority claims. Enter the total amount, divided by 60, of all priority claims, such as priority tax, child support and alimony claims, for which you were liable at the time of your bankruptcy filing. Do not include current obligations, such as those set out in Line 28.</p>			\$																									
45	<p>Chapter 13 administrative expenses. If you are eligible to file a case under chapter 13, complete the following chart, multiply the amount in line a by the amount in line b, and enter the resulting administrative expense.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 5%; text-align: center;">a.</td> <td style="width: 65%;">Projected average monthly chapter 13 plan payment.</td> <td style="width: 30%; text-align: right;">\$</td> </tr> <tr> <td style="text-align: center;">b.</td> <td>Current multiplier for your district as determined under schedules issued by the Executive Office for United States Trustees. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)</td> <td style="text-align: center;">x</td> </tr> <tr> <td style="text-align: center;">c.</td> <td>Average monthly administrative expense of chapter 13 case</td> <td style="text-align: right;">Total: Multiply Lines a and b</td> </tr> </table>			a.	Projected average monthly chapter 13 plan payment.	\$	b.	Current multiplier for your district as determined under schedules issued by the Executive Office for United States Trustees. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)	x	c.	Average monthly administrative expense of chapter 13 case	Total: Multiply Lines a and b	\$																
a.	Projected average monthly chapter 13 plan payment.	\$																											
b.	Current multiplier for your district as determined under schedules issued by the Executive Office for United States Trustees. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)	x																											
c.	Average monthly administrative expense of chapter 13 case	Total: Multiply Lines a and b																											
46	Total Deductions for Debt Payment. Enter the total of Lines 42 through 45.			\$																									

Subpart D: Total Deductions from Income

47	Total of all deductions allowed under § 707(b)(2). Enter the total of Lines 33, 41, and 46.	\$
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Part VI. DETERMINATION OF § 707(b)(2) PRESUMPTION

48	Enter the amount from Line 18 (Current monthly income for § 707(b)(2))	\$
49	Enter the amount from Line 47 (Total of all deductions allowed under § 707(b)(2))	\$
50	Monthly disposable income under § 707(b)(2). Subtract Line 49 from Line 48 and enter the result	\$
51	60-month disposable income under § 707(b)(2). Multiply the amount in Line 50 by the number 60 and enter the result.	\$
52	<p>Initial presumption determination. Check the applicable box and proceed as directed.</p> <p><input type="checkbox"/> The amount on Line 51 is less than \$6,575. Check the box for “The presumption does not arise” at the top of page 1 of this statement, and complete the verification in Part VIII. Do not complete the remainder of Part VI.</p> <p><input type="checkbox"/> The amount set forth on Line 51 is more than \$10,950. Check the box for “The presumption arises” at the top of page 1 of this statement, and complete the verification in Part VIII. You may also complete Part VII. Do not complete the remainder of Part VI.</p> <p><input type="checkbox"/> The amount on Line 51 is at least \$6,575, but not more than \$10,950. Complete the remainder of Part VI (Lines 53 through 55).</p>	
53	Enter the amount of your total non-priority unsecured debt	\$
54	Threshold debt payment amount. Multiply the amount in Line 53 by the number 0.25 and enter the result.	\$
55	<p>Secondary presumption determination. Check the applicable box and proceed as directed.</p> <p><input type="checkbox"/> The amount on Line 51 is less than the amount on Line 54. Check the box for “The presumption does not arise” at the top of page 1 of this statement, and complete the verification in Part VIII.</p> <p><input type="checkbox"/> The amount on Line 51 is equal to or greater than the amount on Line 54. Check the box for “The presumption arises” at the top of page 1 of this statement, and complete the verification in Part VIII. You may also complete Part VII.</p>	

Part VII: ADDITIONAL EXPENSE CLAIMS

56	<p>Other Expenses. List and describe any monthly expenses, not otherwise stated in this form, that are required for the health and welfare of you and your family and that you contend should be an additional deduction from your current monthly income under § 707(b)(2)(A)(ii)(I). If necessary, list additional sources on a separate page. All figures should reflect your average monthly expense for each item. Total the expenses.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 70%;">Expense Description</th> <th style="width: 25%;">Monthly Amount</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">a.</td> <td></td> <td style="text-align: center;">\$</td> </tr> <tr> <td style="text-align: center;">b.</td> <td></td> <td style="text-align: center;">\$</td> </tr> <tr> <td style="text-align: center;">c.</td> <td></td> <td style="text-align: center;">\$</td> </tr> <tr> <td colspan="2" style="text-align: right;">Total: Add Lines a, b and c</td> <td style="text-align: center;">\$</td> </tr> </tbody> </table>			Expense Description	Monthly Amount	a.		\$	b.		\$	c.		\$	Total: Add Lines a, b and c		\$
	Expense Description	Monthly Amount															
a.		\$															
b.		\$															
c.		\$															
Total: Add Lines a, b and c		\$															

Part VIII: VERIFICATION

57	<p>I declare under penalty of perjury that the information provided in this statement is true and correct. <i>(If this is a joint case, both debtors must sign.)</i></p> <p style="text-align: center;">Date: _____ Signature: _____ (Debtor)</p> <p style="text-align: center;">Date: _____ Signature: _____ (Joint Debtor, if any)</p>	
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Official Form 22B (Chapter 11) (12/10)

In re _____
Debtor(s)

Case Number: _____
(If known)

CHAPTER 11 STATEMENT OF CURRENT MONTHLY INCOME

In addition to Schedules I and J, this statement must be completed by every individual Chapter 11 debtor, whether or not filing jointly. Joint debtors may complete one statement only.

Part I. CALCULATION OF CURRENT MONTHLY INCOME					
1	Marital/filing status. Check the box that applies and complete the balance of this part of this statement as directed. a. <input type="checkbox"/> Unmarried. Complete only Column A ("Debtor's Income") for Lines 2-10. b. <input type="checkbox"/> Married, not filing jointly. Complete only Column A ("Debtor's Income") for Lines 2-10. c. <input type="checkbox"/> Married, filing jointly. Complete both Column A ("Debtor's Income") and Column B ("Spouse's Income") for Lines 2-10.				
	All figures must reflect average monthly income received from all sources, derived during the six calendar months prior to filing the bankruptcy case, ending on the last day of the month before the filing. If the amount of monthly income varied during the six months, you must divide the six-month total by six, and enter the result on the appropriate line.			Column A Debtor's Income	Column B Spouse's Income
2	Gross wages, salary, tips, bonuses, overtime, commissions.			\$	\$
3	Net income from the operation of a business, profession, or farm. Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 3. Do not enter a number less than zero.				
	a.	Gross receipts	\$		
	b.	Ordinary and necessary business expenses	\$		
	c.	Business income	Subtract Line b from Line a		\$
4	Net rental and other real property income. Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 4. Do not enter a number less than zero.				
	a.	Gross receipts	\$		
	b.	Ordinary and necessary operating expenses	\$		
	c.	Rent and other real property income	Subtract Line b from Line a		\$
5	Interest, dividends, and royalties.			\$	\$
6	Pension and retirement income.			\$	\$
7	Any amounts paid by another person or entity, on a regular basis, for the household expenses of the debtor or the debtor's dependents, including child or spousal support. Do not include contributions from the debtor's spouse if Column B is completed. Each regular payment should be reported in only one column; if a payment is listed in Column A, do not report that payment in Column B.				
8	Unemployment compensation. Enter the amount in the appropriate column(s) of Line 8. However, if you contend that unemployment compensation received by you or your spouse was a benefit under the Social Security Act, do not list the amount of such compensation in Column A or B, but instead state the amount in the space below: Unemployment compensation claimed to be a benefit under the Social Security Act Debtor \$ _____ Spouse \$ _____				
9	Income from all other sources. If necessary, list additional sources on a separate page. Do not include any benefits received under the Social Security Act or payments received as a victim of a war crime, crime against humanity, or as a victim of international or domestic terrorism. Specify source and amount.				
	a.		\$		
	b.		\$		
	Total and enter on Line 9				\$
10	Subtotal of current monthly income. Add Lines 2 thru 9 in Column A, and, if Column B is completed, add Lines 2 through 9 in Column B. Enter the total(s).				
				\$	\$

11	Total current monthly income. If Column B has been completed, add Line 10, Column A to Line 10, Column B, and enter the total. If Column B has not been completed, enter the amount from Line 10, Column A.	\$
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Part II: VERIFICATION

12	I declare under penalty of perjury that the information provided in this statement is true and correct. <i>(If this is a joint case, both debtors must sign.)</i>	
	Date: _____	Signature: _____ <small>(Debtor)</small>
	Date: _____	Signature: _____ <small>(Joint Debtor, if any)</small>

In re _____
Debtor(s)

Case Number: _____
(If known)

According to the calculations required by this statement:
 The applicable commitment period is 3 years.
 The applicable commitment period is 5 years.
 Disposable income is determined under § 1325(b)(3).
 Disposable income is not determined under § 1325(b)(3).
 (Check the boxes as directed in Lines 17 and 23 of this statement.)

**CHAPTER 13 STATEMENT OF CURRENT MONTHLY INCOME
AND CALCULATION OF COMMITMENT PERIOD AND DISPOSABLE INCOME**

In addition to Schedules I and J, this statement must be completed by every individual chapter 13 debtor, whether or not filing jointly. Joint debtors may complete one statement only.

Part I. REPORT OF INCOME					
1	Marital/filing status. Check the box that applies and complete the balance of this part of this statement as directed. a. <input type="checkbox"/> Unmarried. Complete only Column A ("Debtor's Income") for Lines 2-10. b. <input type="checkbox"/> Married. Complete both Column A ("Debtor's Income") and Column B ("Spouse's Income") for Lines 2-10. All figures must reflect average monthly income received from all sources, derived during the six calendar months prior to filing the bankruptcy case, ending on the last day of the month before the filing. If the amount of monthly income varied during the six months, you must divide the six-month total by six, and enter the result on the appropriate line.			Column A Debtor's Income	Column B Spouse's Income
	2	Gross wages, salary, tips, bonuses, overtime, commissions.	\$	\$	
3	Income from the operation of a business, profession, or farm. Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 3. If you operate more than one business, profession or farm, enter aggregate numbers and provide details on an attachment. Do not enter a number less than zero. Do not include any part of the business expenses entered on Line b as a deduction in Part IV.			\$	\$
	a.	Gross receipts	\$		
	b.	Ordinary and necessary business expenses	\$		
	c.	Business income	Subtract Line b from Line a		
4	Rent and other real property income. Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 4. Do not enter a number less than zero. Do not include any part of the operating expenses entered on Line b as a deduction in Part IV.			\$	\$
	a.	Gross receipts	\$		
	b.	Ordinary and necessary operating expenses	\$		
	c.	Rent and other real property income	Subtract Line b from Line a		
5	Interest, dividends, and royalties.		\$	\$	
6	Pension and retirement income.		\$	\$	
7	Any amounts paid by another person or entity, on a regular basis, for the household expenses of the debtor or the debtor's dependents, including child support paid for that purpose. Do not include alimony or separate maintenance payments or amounts paid by the debtor's spouse. Each regular payment should be reported in only one column; if a payment is listed in Column A, do not report that payment in Column B.			\$	\$

8	<p>Unemployment compensation. Enter the amount in the appropriate column(s) of Line 8. However, if you contend that unemployment compensation received by you or your spouse was a benefit under the Social Security Act, do not list the amount of such compensation in Column A or B, but instead state the amount in the space below:</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:40%;">Unemployment compensation claimed to be a benefit under the Social Security Act</td> <td style="width:20%;">Debtor \$ _____</td> <td style="width:20%;">Spouse \$ _____</td> <td style="width:10%;"></td> <td style="width:10%;"></td> </tr> </table>	Unemployment compensation claimed to be a benefit under the Social Security Act	Debtor \$ _____	Spouse \$ _____			\$	\$					
Unemployment compensation claimed to be a benefit under the Social Security Act	Debtor \$ _____	Spouse \$ _____											
9	<p>Income from all other sources. Specify source and amount. If necessary, list additional sources on a separate page. Total and enter on Line 9. Do not include alimony or separate maintenance payments paid by your spouse, but include all other payments of alimony or separate maintenance. Do not include any benefits received under the Social Security Act or payments received as a victim of a war crime, crime against humanity, or as a victim of international or domestic terrorism.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:5%;">a.</td> <td style="width:60%;"></td> <td style="width:10%; text-align:right;">\$</td> <td style="width:10%;"></td> <td style="width:10%;"></td> </tr> <tr> <td>b.</td> <td></td> <td style="text-align:right;">\$</td> <td></td> <td></td> </tr> </table>	a.		\$			b.		\$			\$	\$
a.		\$											
b.		\$											
10	<p>Subtotal. Add Lines 2 thru 9 in Column A, and, if Column B is completed, add Lines 2 through 9 in Column B. Enter the total(s).</p>	\$	\$										
11	<p>Total. If Column B has been completed, add Line 10, Column A to Line 10, Column B, and enter the total. If Column B has not been completed, enter the amount from Line 10, Column A.</p>	\$											

Part II. CALCULATION OF § 1325(b)(4) COMMITMENT PERIOD

12	<p>Enter the amount from Line 11.</p>	\$													
13	<p>Marital adjustment. If you are married, but are not filing jointly with your spouse, AND if you contend that calculation of the commitment period under § 1325(b)(4) does not require inclusion of the income of your spouse, enter on Line 13 the amount of the income listed in Line 10, Column B that was NOT paid on a regular basis for the household expenses of you or your dependents and specify, in the lines below, the basis for excluding this income (such as payment of the spouse’s tax liability or the spouse’s support of persons other than the debtor or the debtor’s dependents) and the amount of income devoted to each purpose. If necessary, list additional adjustments on a separate page. If the conditions for entering this adjustment do not apply, enter zero.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:5%;">a.</td> <td style="width:60%;"></td> <td style="width:10%; text-align:right;">\$</td> <td style="width:10%;"></td> </tr> <tr> <td>b.</td> <td></td> <td style="text-align:right;">\$</td> <td></td> </tr> <tr> <td>c.</td> <td></td> <td style="text-align:right;">\$</td> <td></td> </tr> </table> <p>Total and enter on Line 13.</p>	a.		\$		b.		\$		c.		\$		\$	
a.		\$													
b.		\$													
c.		\$													
14	<p>Subtract Line 13 from Line 12 and enter the result.</p>	\$													
15	<p>Annualized current monthly income for § 1325(b)(4). Multiply the amount from Line 14 by the number 12 and enter the result.</p>	\$													
16	<p>Applicable median family income. Enter the median family income for applicable state and household size. (This information is available by family size at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)</p> <p>a. Enter debtor’s state of residence: _____ b. Enter debtor’s household size: _____</p>	\$													
17	<p>Application of § 1325(b)(4). Check the applicable box and proceed as directed.</p> <p><input type="checkbox"/> The amount on Line 15 is less than the amount on Line 16. Check the box for “The applicable commitment period is 3 years” at the top of page 1 of this statement and continue with this statement.</p> <p><input type="checkbox"/> The amount on Line 15 is not less than the amount on Line 16. Check the box for “The applicable commitment period is 5 years” at the top of page 1 of this statement and continue with this statement.</p>														

Part III. APPLICATION OF § 1325(b)(3) FOR DETERMINING DISPOSABLE INCOME

18	<p>Enter the amount from Line 11.</p>	\$	
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19	<p>Marital adjustment. If you are married, but are not filing jointly with your spouse, enter on Line 19 the total of any income listed in Line 10, Column B that was NOT paid on a regular basis for the household expenses of the debtor or the debtor's dependents. Specify in the lines below the basis for excluding the Column B income (such as payment of the spouse's tax liability or the spouse's support of persons other than the debtor or the debtor's dependents) and the amount of income devoted to each purpose. If necessary, list additional adjustments on a separate page. If the conditions for entering this adjustment do not apply, enter zero.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:5%; text-align:center;">a.</td> <td style="width:75%;"></td> <td style="width:20%; text-align:right;">\$</td> </tr> <tr> <td style="text-align:center;">b.</td> <td></td> <td style="text-align:right;">\$</td> </tr> <tr> <td style="text-align:center;">c.</td> <td></td> <td style="text-align:right;">\$</td> </tr> </table> <p>Total and enter on Line 19.</p>	a.		\$	b.		\$	c.		\$	\$
a.		\$									
b.		\$									
c.		\$									
20	Current monthly income for § 1325(b)(3). Subtract Line 19 from Line 18 and enter the result.										
21	Annualized current monthly income for § 1325(b)(3). Multiply the amount from Line 20 by the number 12 and enter the result.	\$									
22	Applicable median family income. Enter the amount from Line 16.	\$									
23	<p>Application of § 1325(b)(3). Check the applicable box and proceed as directed.</p> <p><input type="checkbox"/> The amount on Line 21 is more than the amount on Line 22. Check the box for "Disposable income is determined under § 1325(b)(3)" at the top of page 1 of this statement and complete the remaining parts of this statement.</p> <p><input type="checkbox"/> The amount on Line 21 is not more than the amount on Line 22. Check the box for "Disposable income is not determined under § 1325(b)(3)" at the top of page 1 of this statement and complete Part VII of this statement. Do not complete Parts IV, V, or VI.</p>										

Part IV. CALCULATION OF DEDUCTIONS FROM INCOME

Subpart A: Deductions under Standards of the Internal Revenue Service (IRS)

24A	<p>National Standards: food, apparel and services, housekeeping supplies, personal care, and miscellaneous. Enter in Line 24A the "Total" amount from IRS National Standards for Allowable Living Expenses for the applicable number of persons. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) The applicable number of persons is the number that would currently be allowed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support.</p>	\$																								
24B	<p>National Standards: health care. Enter in Line a1 below the amount from IRS National Standards for Out-of-Pocket Health Care for persons under 65 years of age, and in Line a2 the IRS National Standards for Out-of-Pocket Health Care for persons 65 years of age or older. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) Enter in Line b1 the applicable number of persons who are under 65 years of age, and enter in Line b2 the applicable number of persons who are 65 years of age or older. (The applicable number of persons in each age category is the number in that category that would currently be allowed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support.) Multiply Line a1 by Line b1 to obtain a total amount for persons under 65, and enter the result in Line c1. Multiply Line a2 by Line b2 to obtain a total amount for persons 65 and older, and enter the result in Line c2. Add Lines c1 and c2 to obtain a total health care amount, and enter the result in Line 24B.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th colspan="3" style="text-align:left;">Persons under 65 years of age</th> <th colspan="3" style="text-align:left;">Persons 65 years of age or older</th> </tr> </thead> <tbody> <tr> <td style="width:5%; text-align:center;">a1.</td> <td style="width:35%;">Allowance per person</td> <td style="width:20%;"></td> <td style="width:5%; text-align:center;">a2.</td> <td style="width:35%;">Allowance per person</td> <td style="width:20%;"></td> </tr> <tr> <td style="text-align:center;">b1.</td> <td>Number of persons</td> <td></td> <td style="text-align:center;">b2.</td> <td>Number of persons</td> <td></td> </tr> <tr> <td style="text-align:center;">c1.</td> <td>Subtotal</td> <td></td> <td style="text-align:center;">c2.</td> <td>Subtotal</td> <td></td> </tr> </tbody> </table>	Persons under 65 years of age			Persons 65 years of age or older			a1.	Allowance per person		a2.	Allowance per person		b1.	Number of persons		b2.	Number of persons		c1.	Subtotal		c2.	Subtotal		\$
Persons under 65 years of age			Persons 65 years of age or older																							
a1.	Allowance per person		a2.	Allowance per person																						
b1.	Number of persons		b2.	Number of persons																						
c1.	Subtotal		c2.	Subtotal																						
25A	<p>Local Standards: housing and utilities; non-mortgage expenses. Enter the amount of the IRS Housing and Utilities Standards; non-mortgage expenses for the applicable county and family size. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court). The applicable family size consists of the number that would currently be allowed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support.</p>	\$																								

25B	<p>Local Standards: housing and utilities; mortgage/rent expense. Enter, in Line a below, the amount of the IRS Housing and Utilities Standards; mortgage/rent expense for your county and family size (this information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court) (the applicable family size consists of the number that would currently be allowed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support); enter on Line b the total of the Average Monthly Payments for any debts secured by your home, as stated in Line 47; subtract Line b from Line a and enter the result in Line 25B. Do not enter an amount less than zero.</p> <table border="1" style="width:100%; border-collapse: collapse; margin-top: 10px;"> <tr> <td style="width:5%; text-align: center;">a.</td> <td style="width:65%;">IRS Housing and Utilities Standards; mortgage/rent expense</td> <td style="width:30%;">\$</td> </tr> <tr> <td style="text-align: center;">b.</td> <td>Average Monthly Payment for any debts secured by your home, if any, as stated in Line 47</td> <td>\$</td> </tr> <tr> <td style="text-align: center;">c.</td> <td>Net mortgage/rental expense</td> <td>Subtract Line b from Line a.</td> </tr> </table>	a.	IRS Housing and Utilities Standards; mortgage/rent expense	\$	b.	Average Monthly Payment for any debts secured by your home, if any, as stated in Line 47	\$	c.	Net mortgage/rental expense	Subtract Line b from Line a.	\$
a.	IRS Housing and Utilities Standards; mortgage/rent expense	\$									
b.	Average Monthly Payment for any debts secured by your home, if any, as stated in Line 47	\$									
c.	Net mortgage/rental expense	Subtract Line b from Line a.									
26	<p>Local Standards: housing and utilities; adjustment. If you contend that the process set out in Lines 25A and 25B does not accurately compute the allowance to which you are entitled under the IRS Housing and Utilities Standards, enter any additional amount to which you contend you are entitled, and state the basis for your contention in the space below:</p> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/>	\$									
27A	<p>Local Standards: transportation; vehicle operation/public transportation expense. You are entitled to an expense allowance in this category regardless of whether you pay the expenses of operating a vehicle and regardless of whether you use public transportation.</p> <p>Check the number of vehicles for which you pay the operating expenses or for which the operating expenses are included as a contribution to your household expenses in Line 7. <input type="checkbox"/> 0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 or more.</p> <p>If you checked 0, enter on Line 27A the "Public Transportation" amount from IRS Local Standards: Transportation. If you checked 1 or 2 or more, enter on Line 27A the "Operating Costs" amount from IRS Local Standards: Transportation for the applicable number of vehicles in the applicable Metropolitan Statistical Area or Census Region. (These amounts are available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)</p>	\$									
27B	<p>Local Standards: transportation; additional public transportation expense. If you pay the operating expenses for a vehicle and also use public transportation, and you contend that you are entitled to an additional deduction for your public transportation expenses, enter on Line 27B the "Public Transportation" amount from IRS Local Standards: Transportation. (This amount is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)</p>	\$									
28	<p>Local Standards: transportation ownership/lease expense; Vehicle 1. Check the number of vehicles for which you claim an ownership/lease expense. (You may not claim an ownership/lease expense for more than two vehicles.) <input type="checkbox"/> 1 <input type="checkbox"/> 2 or more.</p> <p>Enter, in Line a below, the "Ownership Costs" for "One Car" from the IRS Local Standards: Transportation (available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court); enter in Line b the total of the Average Monthly Payments for any debts secured by Vehicle 1, as stated in Line 47; subtract Line b from Line a and enter the result in Line 28. Do not enter an amount less than zero.</p> <table border="1" style="width:100%; border-collapse: collapse; margin-top: 10px;"> <tr> <td style="width:5%; text-align: center;">a.</td> <td style="width:65%;">IRS Transportation Standards, Ownership Costs</td> <td style="width:30%;">\$</td> </tr> <tr> <td style="text-align: center;">b.</td> <td>Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 47</td> <td>\$</td> </tr> <tr> <td style="text-align: center;">c.</td> <td>Net ownership/lease expense for Vehicle 1</td> <td>Subtract Line b from Line a.</td> </tr> </table>	a.	IRS Transportation Standards, Ownership Costs	\$	b.	Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 47	\$	c.	Net ownership/lease expense for Vehicle 1	Subtract Line b from Line a.	\$
a.	IRS Transportation Standards, Ownership Costs	\$									
b.	Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 47	\$									
c.	Net ownership/lease expense for Vehicle 1	Subtract Line b from Line a.									

29	<p>Local Standards: transportation ownership/lease expense; Vehicle 2. Complete this Line only if you checked the "2 or more" Box in Line 28.</p> <p>Enter, in Line a below, the "Ownership Costs" for "One Car" from the IRS Local Standards: Transportation (available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court); enter in Line b the total of the Average Monthly Payments for any debts secured by Vehicle 2, as stated in Line 47; subtract Line b from Line a and enter the result in Line 29. Do not enter an amount less than zero.</p>		
	a.	IRS Transportation Standards, Ownership Costs	\$
	b.	Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 47	\$
	c.	Net ownership/lease expense for Vehicle 2	Subtract Line b from Line a.
30	<p>Other Necessary Expenses: taxes. Enter the total average monthly expense that you actually incur for all federal, state, and local taxes, other than real estate and sales taxes, such as income taxes, self-employment taxes, social-security taxes, and Medicare taxes. Do not include real estate or sales taxes.</p>		\$
31	<p>Other Necessary Expenses: involuntary deductions for employment. Enter the total average monthly deductions that are required for your employment, such as mandatory retirement contributions, union dues, and uniform costs. Do not include discretionary amounts, such as voluntary 401(k) contributions.</p>		\$
32	<p>Other Necessary Expenses: life insurance. Enter total average monthly premiums that you actually pay for term life insurance for yourself. Do not include premiums for insurance on your dependents, for whole life or for any other form of insurance.</p>		\$
33	<p>Other Necessary Expenses: court-ordered payments. Enter the total monthly amount that you are required to pay pursuant to the order of a court or administrative agency, such as spousal or child support payments. Do not include payments on past due obligations included in Line 49.</p>		\$
34	<p>Other Necessary Expenses: education for employment or for a physically or mentally challenged child. Enter the total average monthly amount that you actually expend for education that is a condition of employment and for education that is required for a physically or mentally challenged dependent child for whom no public education providing similar services is available.</p>		\$
35	<p>Other Necessary Expenses: childcare. Enter the total average monthly amount that you actually expend on childcare—such as baby-sitting, day care, nursery and preschool. Do not include other educational payments.</p>		\$
36	<p>Other Necessary Expenses: health care. Enter the total average monthly amount that you actually expend on health care that is required for the health and welfare of yourself or your dependents, that is not reimbursed by insurance or paid by a health savings account, and that is in excess of the amount entered in Line 24B. Do not include payments for health insurance or health savings accounts listed in Line 39.</p>		\$
37	<p>Other Necessary Expenses: telecommunication services. Enter the total average monthly amount that you actually pay for telecommunication services other than your basic home telephone and cell phone service—such as pagers, call waiting, caller id, special long distance, or internet service—to the extent necessary for your health and welfare or that of your dependents. Do not include any amount previously deducted.</p>		\$
38	<p>Total Expenses Allowed under IRS Standards. Enter the total of Lines 24 through 37.</p>		\$
<p>Subpart B: Additional Living Expense Deductions Note: Do not include any expenses that you have listed in Lines 24–37</p>			

39	<p>Health Insurance, Disability Insurance, and Health Savings Account Expenses. List the monthly expenses in the categories set out in lines a-c below that are reasonably necessary for yourself, your spouse, or your dependents.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:5%; text-align:center;">a.</td> <td style="width:60%;">Health Insurance</td> <td style="width:35%; text-align:right;">\$</td> </tr> <tr> <td style="text-align:center;">b.</td> <td>Disability Insurance</td> <td style="text-align:right;">\$</td> </tr> <tr> <td style="text-align:center;">c.</td> <td>Health Savings Account</td> <td style="text-align:right;">\$</td> </tr> </table> <p>Total and enter on Line 39</p>	a.	Health Insurance	\$	b.	Disability Insurance	\$	c.	Health Savings Account	\$	\$
a.	Health Insurance	\$									
b.	Disability Insurance	\$									
c.	Health Savings Account	\$									
<p>If you do not actually expend this total amount, state your actual total average monthly expenditures in the space below: \$ _____</p>											
40	<p>Continued contributions to the care of household or family members. Enter the total average actual monthly expenses that you will continue to pay for the reasonable and necessary care and support of an elderly, chronically ill, or disabled member of your household or member of your immediate family who is unable to pay for such expenses. Do not include payments listed in Line 34.</p>	\$									
41	<p>Protection against family violence. Enter the total average reasonably necessary monthly expenses that you actually incur to maintain the safety of your family under the Family Violence Prevention and Services Act or other applicable federal law. The nature of these expenses is required to be kept confidential by the court.</p>	\$									
42	<p>Home energy costs. Enter the total average monthly amount, in excess of the allowance specified by IRS Local Standards for Housing and Utilities, that you actually expend for home energy costs. You must provide your case trustee with documentation of your actual expenses, and you must demonstrate that the additional amount claimed is reasonable and necessary.</p>	\$									
43	<p>Education expenses for dependent children under 18. Enter the total average monthly expenses that you actually incur, not to exceed \$137.50 per child, for attendance at a private or public elementary or secondary school by your dependent children less than 18 years of age. You must provide your case trustee with documentation of your actual expenses, and you must explain why the amount claimed is reasonable and necessary and not already accounted for in the IRS Standards.</p>	\$									
44	<p>Additional food and clothing expense. Enter the total average monthly amount by which your food and clothing expenses exceed the combined allowances for food and clothing (apparel and services) in the IRS National Standards, not to exceed 5% of those combined allowances. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) You must demonstrate that the additional amount claimed is reasonable and necessary.</p>	\$									
45	<p>Charitable contributions. Enter the amount reasonably necessary for you to expend each month on charitable contributions in the form of cash or financial instruments to a charitable organization as defined in 26 U.S.C. § 170(c)(1)-(2). Do not include any amount in excess of 15% of your gross monthly income.</p>	\$									
46	<p>Total Additional Expense Deductions under § 707(b). Enter the total of Lines 39 through 45.</p>	\$									

Subpart C: Deductions for Debt Payment

47	<p>Future payments on secured claims. For each of your debts that is secured by an interest in property that you own, list the name of the creditor, identify the property securing the debt, state the Average Monthly Payment, and check whether the payment includes taxes or insurance. The Average Monthly Payment is the total of all amounts scheduled as contractually due to each Secured Creditor in the 60 months following the filing of the bankruptcy case, divided by 60. If necessary, list additional entries on a separate page. Enter the total of the Average Monthly Payments on Line 47.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:5%;"></th> <th style="width:25%;">Name of Creditor</th> <th style="width:30%;">Property Securing the Debt</th> <th style="width:15%;">Average Monthly Payment</th> <th style="width:25%;">Does payment include taxes or insurance?</th> </tr> </thead> <tbody> <tr> <td style="text-align:center;">a.</td> <td></td> <td></td> <td style="text-align:right;">\$</td> <td style="text-align:center;"><input type="checkbox"/> yes <input type="checkbox"/> no</td> </tr> <tr> <td style="text-align:center;">b.</td> <td></td> <td></td> <td style="text-align:right;">\$</td> <td style="text-align:center;"><input type="checkbox"/> yes <input type="checkbox"/> no</td> </tr> <tr> <td style="text-align:center;">c.</td> <td></td> <td></td> <td style="text-align:right;">\$</td> <td style="text-align:center;"><input type="checkbox"/> yes <input type="checkbox"/> no</td> </tr> <tr> <td></td> <td></td> <td></td> <td style="text-align:right;">Total: Add Lines a, b, and c</td> <td></td> </tr> </tbody> </table>		Name of Creditor	Property Securing the Debt	Average Monthly Payment	Does payment include taxes or insurance?	a.			\$	<input type="checkbox"/> yes <input type="checkbox"/> no	b.			\$	<input type="checkbox"/> yes <input type="checkbox"/> no	c.			\$	<input type="checkbox"/> yes <input type="checkbox"/> no				Total: Add Lines a, b, and c		\$
	Name of Creditor	Property Securing the Debt	Average Monthly Payment	Does payment include taxes or insurance?																							
a.			\$	<input type="checkbox"/> yes <input type="checkbox"/> no																							
b.			\$	<input type="checkbox"/> yes <input type="checkbox"/> no																							
c.			\$	<input type="checkbox"/> yes <input type="checkbox"/> no																							
			Total: Add Lines a, b, and c																								

48		<p>Other payments on secured claims. If any of debts listed in Line 47 are secured by your primary residence, a motor vehicle, or other property necessary for your support or the support of your dependents, you may include in your deduction 1/60th of any amount (the "cure amount") that you must pay the creditor in addition to the payments listed in Line 47, in order to maintain possession of the property. The cure amount would include any sums in default that must be paid in order to avoid repossession or foreclosure. List and total any such amounts in the following chart. If necessary, list additional entries on a separate page.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:5%;"></th> <th style="width:30%;">Name of Creditor</th> <th style="width:30%;">Property Securing the Debt</th> <th style="width:35%;">1/60th of the Cure Amount</th> </tr> </thead> <tbody> <tr> <td>a.</td> <td></td> <td></td> <td style="text-align:right;">\$</td> </tr> <tr> <td>b.</td> <td></td> <td></td> <td style="text-align:right;">\$</td> </tr> <tr> <td>c.</td> <td></td> <td></td> <td style="text-align:right;">\$</td> </tr> <tr> <td></td> <td></td> <td></td> <td style="text-align:right;">Total: Add Lines a, b, and c</td> </tr> </tbody> </table>		Name of Creditor	Property Securing the Debt	1/60th of the Cure Amount	a.			\$	b.			\$	c.			\$				Total: Add Lines a, b, and c	\$
	Name of Creditor	Property Securing the Debt	1/60th of the Cure Amount																				
a.			\$																				
b.			\$																				
c.			\$																				
			Total: Add Lines a, b, and c																				
49		<p>Payments on prepetition priority claims. Enter the total amount, divided by 60, of all priority claims, such as priority tax, child support and alimony claims, for which you were liable at the time of your bankruptcy filing. Do not include current obligations, such as those set out in Line 33.</p>	\$																				
50		<p>Chapter 13 administrative expenses. Multiply the amount in Line a by the amount in Line b, and enter the resulting administrative expense.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tbody> <tr> <td style="width:5%; text-align:center;">a.</td> <td style="width:60%;">Projected average monthly chapter 13 plan payment.</td> <td style="width:35%; text-align:right;">\$</td> </tr> <tr> <td style="text-align:center;">b.</td> <td>Current multiplier for your district as determined under schedules issued by the Executive Office for United States Trustees. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)</td> <td style="text-align:center;">x</td> </tr> <tr> <td style="text-align:center;">c.</td> <td>Average monthly administrative expense of chapter 13 case</td> <td style="text-align:right;">Total: Multiply Lines a and b</td> </tr> </tbody> </table>	a.	Projected average monthly chapter 13 plan payment.	\$	b.	Current multiplier for your district as determined under schedules issued by the Executive Office for United States Trustees. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)	x	c.	Average monthly administrative expense of chapter 13 case	Total: Multiply Lines a and b	\$											
a.	Projected average monthly chapter 13 plan payment.	\$																					
b.	Current multiplier for your district as determined under schedules issued by the Executive Office for United States Trustees. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)	x																					
c.	Average monthly administrative expense of chapter 13 case	Total: Multiply Lines a and b																					
51		<p>Total Deductions for Debt Payment. Enter the total of Lines 47 through 50.</p>	\$																				
Subpart D: Total Deductions from Income																							
52		<p>Total of all deductions from income. Enter the total of Lines 38, 46, and 51.</p>	\$																				
Part V. DETERMINATION OF DISPOSABLE INCOME UNDER § 1325(b)(2)																							
53		<p>Total current monthly income. Enter the amount from Line 20.</p>	\$																				
54		<p>Support income. Enter the monthly average of any child support payments, foster care payments, or disability payments for a dependent child, reported in Part I, that you received in accordance with applicable nonbankruptcy law, to the extent reasonably necessary to be expended for such child.</p>	\$																				
55		<p>Qualified retirement deductions. Enter the monthly total of (a) all amounts withheld by your employer from wages as contributions for qualified retirement plans, as specified in § 541(b)(7) and (b) all required repayments of loans from retirement plans, as specified in § 362(b)(19).</p>	\$																				
56		<p>Total of all deductions allowed under § 707(b)(2). Enter the amount from Line 52.</p>	\$																				

57	<p>Deduction for special circumstances. If there are special circumstances that justify additional expenses for which there is no reasonable alternative, describe the special circumstances and the resulting expenses in lines a-c below. If necessary, list additional entries on a separate page. Total the expenses and enter the total in Line 57. You must provide your case trustee with documentation of these expenses and you must provide a detailed explanation of the special circumstances that make such expenses necessary and reasonable.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:5%;"></th> <th style="width:65%;">Nature of special circumstances</th> <th style="width:30%;">Amount of expense</th> </tr> </thead> <tbody> <tr> <td>a.</td> <td></td> <td style="text-align: right;">\$</td> </tr> <tr> <td>b.</td> <td></td> <td style="text-align: right;">\$</td> </tr> <tr> <td>c.</td> <td></td> <td style="text-align: right;">\$</td> </tr> <tr> <td colspan="2" style="text-align: right;">Total: Add Lines a, b, and c</td> <td style="text-align: right;">\$</td> </tr> </tbody> </table>		Nature of special circumstances	Amount of expense	a.		\$	b.		\$	c.		\$	Total: Add Lines a, b, and c		\$	\$
	Nature of special circumstances	Amount of expense															
a.		\$															
b.		\$															
c.		\$															
Total: Add Lines a, b, and c		\$															
58	<p>Total adjustments to determine disposable income. Add the amounts on Lines 54, 55, 56, and 57 and enter the result.</p>	\$															
59	<p>Monthly Disposable Income Under § 1325(b)(2). Subtract Line 58 from Line 53 and enter the result.</p>	\$															

Part VI: ADDITIONAL EXPENSE CLAIMS

60	<p>Other Expenses. List and describe any monthly expenses, not otherwise stated in this form, that are required for the health and welfare of you and your family and that you contend should be an additional deduction from your current monthly income under § 707(b)(2)(A)(ii)(I). If necessary, list additional sources on a separate page. All figures should reflect your average monthly expense for each item. Total the expenses.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:5%;"></th> <th style="width:65%;">Expense Description</th> <th style="width:30%;">Monthly Amount</th> </tr> </thead> <tbody> <tr> <td>a.</td> <td></td> <td style="text-align: right;">\$</td> </tr> <tr> <td>b.</td> <td></td> <td style="text-align: right;">\$</td> </tr> <tr> <td>c.</td> <td></td> <td style="text-align: right;">\$</td> </tr> <tr> <td colspan="2" style="text-align: right;">Total: Add Lines a, b, and c</td> <td style="text-align: right;">\$</td> </tr> </tbody> </table>		Expense Description	Monthly Amount	a.		\$	b.		\$	c.		\$	Total: Add Lines a, b, and c		\$	
	Expense Description	Monthly Amount															
a.		\$															
b.		\$															
c.		\$															
Total: Add Lines a, b, and c		\$															

Part VII: VERIFICATION

61	<p>I declare under penalty of perjury that the information provided in this statement is true and correct. <i>(If this is a joint case, both debtors must sign.)</i></p>	
	<p>Date: _____</p>	<p>Signature: _____ (Debtor)</p>
	<p>Date: _____</p>	<p>Signature: _____ (Joint Debtor, if any)</p>

2010 COMMITTEE NOTE

Form 22A, lines 19A, 19B, 20A, and 20B, and Form 22C, lines 24A, 24B, 25A, and 25B, are amended to delete the terms “household” and “household size” and to replace them with “number of persons” or “family size.” Under § 707(b)(2)(A)(ii)(I) means test deductions for food, clothing, and other items and for health care are permitted to be taken in the amounts specified in the IRS National Standards. The IRS National Standards are based on numbers of persons, not household size. Similarly, the IRS Local Standards are based on family, not household, size. The IRS itself generally determines the applicable number of persons or family size for these purposes according to the number of dependents that the debtor claims for federal income tax purposes.

In order for Forms 22A and 22C to reflect more accurately the manner in which the specified National and Local Standards are applied by the IRS, the references to “household” and “household size” are deleted, and the substituted terms – “number of persons” and “family size” – are defined in terms of exemptions on the debtor’s federal income tax return and other dependents.

Form 22A, line 8, Form 22B, line 7, and Form 22C, line 7, are amended to add an instruction that only one joint filer should report regular payments by another person for household expenses. Reporting of the figure by both spouses results in an erroneous double-counting of this source of income.

The introductory instruction to Part I of Form 22A is amended to direct debtors in joint cases to file separate forms if only one of the debtors is entitled to an exemption under Part I and the debtors believe that the filing of separate forms is required by § 707(b)(2)(C) of the Code. The language of § 707(b) is ambiguous about how the exclusions from means testing authorized by § 707(b)(1) (for debtors whose debts are not primarily consumer debts) and (b)(2)(D) (for certain disabled veterans, National Guard members, and Armed Forces reservists) are to be applied in joint cases. The form does not impose a particular interpretation of these provisions. It leaves up to joint debtors the initial determination of whether the exclusion of one spouse from means testing relieves the other spouse from the obligation to complete the form, and allows any dispute over this matter to be resolved by the courts.

TAB

10B

**PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY
PROCEDURE***

For Publication for Public Comment

Rule 3001. Proof of Claim**

1
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* * * * *

(c) SUPPORTING INFORMATION.

(1) *Claim Based on a Writing.* Except for a claim governed by paragraph (3) of this subdivision, wWhen a claim, or an interest in property of the debtor securing the claim, is based on a writing, the original or a duplicate shall be filed with the proof of claim. If the writing has been lost or destroyed, a statement of the circumstances of the loss or destruction shall be filed with the claim.

* * * * *

(3) Claim Based on an Open-End or Revolving Consumer Credit Agreement.

(A) When a claim is based on an open-end or revolving consumer credit agreement, a statement shall be filed with the proof of claim including, as applicable, the following

* New material is underlined; matter to be omitted is lined through.

** Incorporates amendments that are due to take effect on December 1, 2011, if approved by the Judicial Conference and the Supreme Court, and if Congress takes no action otherwise.

16 information:
17 (i) the name of the entity from whom
18 the creditor purchased the account;
19 (ii) the name of the entity to whom
20 the debt was owed at the time of the last transaction on the account
21 by an account holder;
22 (iii) the date of the last transaction on
23 the account by an account holder;
24 (iv) the date of the last payment on
25 the account;
26 (v) the date on which the account
27 was charged to profit and loss.
28 (B) On written request, the holder of a claim
29 based on an open-end or revolving consumer credit agreement shall
30 provide a party in interest the documentation specified in paragraph
31 (1) of this subdivision.

COMMITTEE NOTE

Subdivision (c) is amended to add paragraph (3), which specifies information that must be provided in support of a claim based on an open-end or revolving consumer credit agreement (such as an agreement underlying the issuance of a credit card). Because a claim of this type may have been sold one or more times prior to the debtor's bankruptcy, the debtor may not recognize the name of the person filing the proof of claim. Disclosure of the information required by paragraph (3) will assist the debtor in associating the claim with a known account. It will also provide a

basis for assessing the timeliness of the claim. The date, if any, on which the account was charged to profit and loss (“charge-off” date) under subparagraph (A)(v) should be determined in accordance with applicable standards for the classification and account management of consumer credit.

To the extent that paragraph (3) applies to a claim, paragraph (1) of subdivision (c) is not applicable. A party in interest, however, may obtain the writing on which an open-end or revolving consumer credit claim is based by requesting in writing that documentation from the holder of the claim.

Rule 7054. Judgments; Costs

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(b) COSTS. The court may allow costs to the prevailing party except when a statute of the United States or these rules otherwise provides. Costs against the United States, its officers and agencies shall be imposed only to the extent permitted by law. Costs may be taxed by the clerk on ~~one day's~~ 14 days' notice; on motion served within ~~five~~ seven days thereafter, the action of the clerk may be reviewed by the court.

COMMITTEE NOTE

Subdivision (b) is amended to provide more time for a party to respond to the prevailing party's bill of costs. The former rule's provision of one day's notice was unrealistically short. The change to 14 days conforms to the change made to Civil Rule 54(d). Extension from five to seven days of the time for serving a motion for court review of the clerk's action implements changes in connection with the December 1, 2009, amendment to Rule 9006(a) and the manner by which time is computed under the rules. Throughout the rules, deadlines have been amended in the

following manner:

- 5-day periods became 7-day periods
- 10-day periods became 14-day periods
- 15-day periods became 14-day periods
- 20-day periods became 21-day periods
- 25-day periods became 28-day periods

Rule 7056. Summary Judgment

1 Rule 56 F. R. Civ. P. applies in adversary proceedings;
2 except that, unless a different time is set by local rule or the court
3 orders otherwise, any motion for summary judgment must be made
4 at least 30 days before the initial date set for an evidentiary hearing
5 on any issue for which summary judgment is sought.

COMMITTEE NOTE

The only exception to complete adoption of Rule 56 F.R. Civ. P. involves the default deadline for filing a summary judgment motion. Rule 56(c)(1)(A) makes the default deadline 30 days after the close of all discovery. Because in bankruptcy cases hearings can occur shortly after the close of discovery, a default deadline based on the scheduled hearing date, rather than the close of discovery, is adopted. As with Rule 56(c)(1), the deadline can be altered either by local rule or court order.

UNITED STATES BANKRUPTCY COURT _____ DISTRICT OF _____		PROOF OF CLAIM
Name of Debtor: _____	Case Number: _____	
NOTE: Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing. You may file a request for payment of an administrative expense according to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): _____		COURT USE ONLY
Name and address where notices should be sent: Telephone number: _____ email: _____		<input type="checkbox"/> Check this box if this claim amends a previously filed claim. Court Claim Number: _____ (If known) Filed on: _____
Name and address where payment should be sent (if different from above): Telephone number: _____ email: _____		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check this box if you are the debtor or trustee in this case.
1. Amount of Claim as of Date Case Filed: \$ _____ If all or part of the claim is secured, complete item 4. If all or part of the claim is entitled to priority, complete item 5. <input type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.		
2. Basis for Claim: _____ (See instruction #2)		
3. Last four digits of any number by which creditor identifies debtor: _____	3a. Debtor may have scheduled account as: _____ (See instruction #3a)	3b. Uniform Claim Identifier (optional): _____ (See instruction #3b)
4. Secured Claim (See instruction #4) Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: _____ Value of Property: \$ _____ Annual Interest Rate _____ % <input type="checkbox"/> Fixed or <input type="checkbox"/> Variable (when case was filed)		Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____
5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount.		
<input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).	<input type="checkbox"/> Wages, salaries, or commissions (up to \$11,725* earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier – 11 U.S.C. §507 (a)(4).	<input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507 (a)(5). Amount entitled to priority: \$ _____
<input type="checkbox"/> Up to \$2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7).	<input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8).	<input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507 (a)(____).
*Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.		
6. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #6)		

7. **Documents:** Attached are **redacted** copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. If the claim is secured, box 4 has been completed, and **redacted** copies of documents providing evidence of perfection of a security interest are attached. (See instruction #7, and the definition of "redacted".)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain:

8. **Signature:** (See instruction #8)

Check the appropriate box.

- I am the creditor.
- I am the creditor's authorized agent. (Attach copy of power of attorney, if any.)
- I am the trustee, or the debtor. (See Bankruptcy Rule 3004.)
- I am a guarantor, surety, indorser, or other codebtor. (See Bankruptcy Rule 3005.)

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

Print Name: _____

Title: _____

Company: _____

Address and telephone number (if different from notice address above): _____

(Signature) (Date)

Telephone number: _____ email: _____

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, exceptions to these general rules may apply.

Items to be completed in Proof of Claim form

Court, Name of Debtor, and Case Number:

Fill in the federal judicial district in which the bankruptcy case was filed (for example, Central District of California), the debtor's full name, and the case number. If the creditor received a notice of the case from the bankruptcy court, all of this information is at the top of the notice.

Creditor's Name and Address:

Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

1. Amount of Claim as of Date Case Filed:

State the total amount owed to the creditor on the date of the bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.

2. Basis for Claim:

State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card. If the claim is based on delivering health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information. You may be required to provide additional disclosure if an interested party objects to the claim.

3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:

State only the last four digits of the debtor's account or other number used by the creditor to identify the debtor.

3a. Debtor May Have Scheduled Account As:

Report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the debtor.

3b. Uniform Claim Identifier:

If you use a uniform claim identifier, you may report it here. A uniform claim identifier is an optional 24-character identifier that certain large creditors use to facilitate electronic payment in chapter 13 cases.

4. Secured Claim:

Check whether the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See Definitions.) If the claim is secured, check the box for the nature and value of property that secures the claim, attach copies of lien documentation, and state, as of the date of the bankruptcy filing, the annual interest rate (and whether it is fixed or variable), and the amount past due on the claim.

5. Amount of Claim Entitled to Priority Under 11 U.S.C. §507(a).

If any portion of the claim falls into any category shown, check the appropriate box(es) and state the amount entitled to priority. (See Definitions.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

6. Credits:

An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

7. Documents:

Attach redacted copies of any documents that show the debt exists and a lien secures the debt. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary in addition to the documents themselves. FRBP 3001(c) and (d). If the claim is based on delivering health care goods or services, limit disclosing confidential health care information. Do not send original documents, as attachments may be destroyed after scanning.

8. Date and Signature:

The individual completing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what constitutes a signature. If you sign this form, you declare under penalty of perjury that the information provided is true and correct to the best of your knowledge, information, and reasonable belief. Your signature is also a certification that the claim meets the requirements of FRBP 9011(b). Whether the claim is filed electronically or in person, if your name is on the signature line, you are responsible for the declaration. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. If the claim is filed by an authorized agent, attach a complete copy of any power of attorney, and provide both the name of the individual filing the claim and the name of the agent. If the authorized agent is a servicer, identify the corporate servicer as the company. Criminal penalties apply for making a false statement on a proof of claim.

DEFINITIONS

Debtor

A debtor is the person, corporation, or other entity that has filed a bankruptcy case.

Creditor

A creditor is a person, corporation, or other entity to whom debtor owes a debt that was incurred before the date of the bankruptcy filing. See 11 U.S.C. §101 (10).

Claim

A claim is the creditor's right to receive payment for a debt owed by the debtor on the date of the bankruptcy filing. See 11 U.S.C. §101 (5). A claim may be secured or unsecured.

Proof of Claim

A proof of claim is a form used by the creditor to indicate the amount of the debt owed by the debtor on the date of the bankruptcy filing. The creditor must file the form with the clerk of the same bankruptcy court in which the bankruptcy case was filed.

Secured Claim Under 11 U.S.C. §506(a)

A secured claim is one backed by a lien on property of the debtor. The claim is secured so long as the creditor has the right to be paid from the property prior to other creditors. The amount of the secured claim cannot exceed the value of the property. Any amount owed to the creditor in excess of the value of the property is an unsecured claim. Examples of liens on property include a mortgage on real estate or a security interest in a car. A lien may be voluntarily granted by a debtor or may be obtained through a court proceeding. In some states, a court judgment is a lien.

A claim also may be secured if the creditor owes the debtor money (has a right to setoff).

Unsecured Claim

An unsecured claim is one that does not meet the requirements of a secured claim. A claim may be partly unsecured if the amount of the claim exceeds the value of the property on which the creditor has a lien.

Claim Entitled to Priority Under 11 U.S.C.

§507(a)
Priority claims are certain categories of unsecured claims that are paid from the available money or property in a bankruptcy case before other unsecured claims.

Redacted

A document has been redacted when the person filing it has masked, edited out, or otherwise deleted, certain information. A creditor must show only the last four digits of any social-security, individual's tax-identification, or financial-account number, only the initials of a minor's name, and only the year of any person's date of birth. If the claim is based on the delivery of health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information.

Evidence of Perfection

Evidence of perfection may include a mortgage, lien, certificate of title, financing statement, or other document showing that the lien has been filed or recorded.

INFORMATION

Acknowledgment of Filing of Claim

To receive acknowledgment of your filing, you may either enclose a stamped self-addressed envelope and a copy of this proof of claim or you may access the court's PACER system (www.pacer.psc.uscourts.gov) for a small fee to view your filed proof of claim.

Offers to Purchase a Claim

Certain entities are in the business of purchasing claims for an amount less than the face value of the claims. One or more of these entities may contact the creditor and offer to purchase the claim. Some of the written communications from these entities may easily be confused with official court documentation or communications from the debtor. These entities do not represent the bankruptcy court or the debtor. The creditor has no obligation to sell its claim. However, if the creditor decides to sell its claim, any transfer of such claim is subject to FRBP 3001(e), any applicable provisions of the Bankruptcy Code (11 U.S.C. § 101 *et seq.*), and any applicable orders of the bankruptcy court.

COMMITTEE NOTE

The form is amended in several respects. A new section – 3b – is added to allow the reporting of a uniform claim identifier. This identifier, consisting of 24 characters, is used by some creditors to facilitate automated receipt, distribution, and posting of payments made by means of electronic funds transfers by chapter 13 trustees. Creditors are not required to use a uniform claim identifier.

Language is added to section 4 to clarify that the annual interest rate that must be reported for a secured claim is the rate applicable at the time the bankruptcy case was filed. Check boxes for indicating whether the interest rate is fixed or variable are also added.

Section 7 of the form is revised to clarify that, consistent with Rule 3001(c), writings supporting a claim or evidencing perfection of a security interest must be attached to the proof of claim. If the documents are not available, the filer must provide an explanation for their absence. The instructions for this section of the form explain that summaries of supporting documents may be attached only in addition to the documents themselves.

Section 8 – the date and signature box – is revised to include a declaration that is intended to impress upon the filer the duty of care that must be exercised in filing a proof of claim. The individual who completes the form must sign it. By doing so, he or she declares under penalty of perjury that the information provided “is true and correct to the best of my knowledge, information and reasonable belief.” That individual must also provide identifying information – name, title, company, address, and telephone number (if not already provided) – and indicate by checking the appropriate box the basis on which he or she is filing the proof of claim (for example, as creditor or authorized agent for the creditor). When a servicing agent files a proof of claim on behalf of a creditor, the individual completing the form must sign it and must provide his or her own name, as well as the name of the company that is the servicing agent.

Amendments are made to the instructions that reflect the changes made to the form, and stylistic and formatting changes are made to the form and instructions.

Mortgage Proof of Claim Attachment

If you file a claim secured by a security interest in the debtor's principal residence, you must use this form as an attachment to your proof of claim. See Bankruptcy Rule 3001(c)(2).

Name of debtor: _____ Case number: _____

Name of creditor: _____ Last four digits of any number you use to identify the debtor's account: _____

Part 1: Statement of Principal and Interest Due as of the Petition Date

Itemize the principal and interest due on the claim as of the petition date (included in the Amount of Claim listed in Item 1 on your Proof of Claim form).

1. Principal due \$ _____

2. Interest due

Interest rate	From mm/dd/yyyy	To mm/dd/yyyy	Amount
_____ %	___/___/___	___/___/___	\$ _____
_____ %	___/___/___	___/___/___	\$ _____
_____ %	___/___/___	___/___/___	+ \$ _____
Total interest due as of the petition date			\$ _____

Copy total here ▶ + \$ _____

3. Total principal and interest due \$ _____

Part 2: Statement of Prepetition Fees, Expenses, and Charges

Itemize the fees, expenses, and charges incurred in connection with the claim as of the petition date (included in the Amount of Claim listed in Item 1 on the Proof of Claim form).

Description	Dates incurred	Amount
Late charges	_____	\$ _____
Non-sufficient funds (NSF) fees	_____	\$ _____
Attorney's fees	_____	\$ _____
Filing fees and court costs	_____	\$ _____
Advertisement costs	_____	\$ _____
Sheriff/auctioneer fees	_____	\$ _____
Title costs	_____	\$ _____
Recording fees	_____	\$ _____
Appraisal/broker's price opinion fees	_____	\$ _____
Property inspection fees	_____	\$ _____
Tax advances (non-escrow)	_____	\$ _____
Insurance advances (non-escrow)	_____	\$ _____
Escrow shortage or deficiency (not included in payments due)	_____	\$ _____
Property preservation expenses. Specify: _____	_____	\$ _____
Other. Specify: _____	_____	\$ _____
Other. Specify: _____	_____	\$ _____
Other. Specify: _____	_____	\$ _____
		+ \$ _____

Total prepetition fees, expenses, and charges. Add all of the amounts listed above. \$ _____

Part 3. Statement of Amount Necessary to Cure Default as of the Petition Date

Does the installment payment amount include an escrow deposit?

- No
- Yes. Attach to the Proof of Claim form an escrow account statement prepared as of the petition date in a form consistent with applicable nonbankruptcy law.

1. **Installment payments due** Date last payment received by creditor / /

Number of installment payments due _____

2. **Amount of installment payments due** _____ installments @ \$ _____

_____ installments @ \$ _____

_____ installments @ + \$ _____

Total installment payments due as of the petition date \$ _____

Copy total here ▶ \$ _____

Add total prepetition fees, expenses, and charges

Copy total from Part 2 here ▶ + \$ _____

Subtract total of unapplied funds (funds received but not credited to account)

- \$ _____

Total amount necessary to cure default as of the petition date

\$ _____

Copy total onto Item 4 of Proof of Claim form

COMMITTEE NOTE

This form is new. It must be completed and attached to a proof of claim secured by a security interest in a debtor's principal residence. The form, which implements Rule 3001(c)(2), requires an itemization of prepetition interest, fees, expenses, and charges included in the claim amount, as well as a statement of the amount necessary to cure any default as of the petition date. If the mortgage installment payments include an escrow deposit, an escrow account statement must also be attached to the proof of claim, as required by Rule 3001(c)(2)(C).

UNITED STATES BANKRUPTCY COURT

_____ District of _____

In re _____,
Debtor

Case No. _____

Chapter 13

Notice of Mortgage Payment Change

If you file a claim secured by a security interest in the debtor's principal residence provided for under the debtor's plan pursuant to § 1322(b)(5), you must use this form to give notice of any changes in the installment payment amount. File this form as a supplement to your proof of claim at least 21 days before the new payment amount is due. See Bankruptcy Rule 3002.1.

Name of creditor: _____

Court claim no. (if known): _____

Last four digits of any number
you use to identify the debtor's
account: _____

Date of payment change:
Must be at least 21 days after date
of this notice _____/_____/_____

New total payment:
Principal, interest, and escrow, if
any \$ _____

Part 1: Escrow Account Payment Adjustment

Will there be a change in the debtor's escrow account payment?

- No
- Yes. Attach a copy of the escrow account statement, prepared according to applicable nonbankruptcy law. Describe the basis for the change. If a statement is not attached, explain why: _____

Current escrow payment: \$ _____

New escrow payment: \$ _____

Part 2: Mortgage Payment Adjustment

Will the debtor's principal and interest payment change based on an adjustment to the interest rate in the debtor's variable-rate note?

- No
- Yes. Attach a copy of the rate change notice, prepared according to applicable nonbankruptcy law. Describe the basis for the change. If a notice is not attached, explain why: _____

Current interest rate: _____%

New interest rate: _____%

Current principal and interest payment: \$ _____

New principal and interest payment: \$ _____

Part 3: Other Payment Change

Will there be a change in the debtor's mortgage payment for a reason not listed above?

- No
- Yes. Attach a copy of any documents describing the basis for the change, such as a repayment plan or loan modification agreement. (Court approval may be required before the payment change can take effect.)

Reason for change: _____

Current mortgage payment: \$ _____

New mortgage payment: \$ _____

Part 4: Sign Here

The person completing this Notice must sign it. Sign and print your name and your title, if any, and state your address and telephone number if different from the notice address listed on the proof of claim to which this Supplement applies.

Check the appropriate box.

- I am the creditor.
- I am the creditor's authorized agent.
(Attach copy of power of attorney, if any.)

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

X _____ Date ____/____/____
 Signature

Print: _____ Title _____
 First Name Middle Name Last Name

Company _____

Address _____
 Number Street
 City State ZIP Code

Contact phone (____) ____-____ Email _____

COMMITTEE NOTE

This form is new and applies in chapter 13 cases. It implements Rule 3002.1, which requires the holder of a claim secured by a security interest in the debtor's principal residence -- or the holder's agent -- to provide notice at least 21 days prior to a change in the amount of the ongoing mortgage installment payments. The form requires the holder of the claim to indicate the basis for the changed payment amount and when it will take effect. The notice must be filed as a supplement to the claim holder's proof of claim, and it must be served on the debtor, debtor's counsel, and the trustee.

The individual completing the form must sign and date it. By doing so, he or she declares under penalty of perjury that the information provided is true and correct to the best of that individual's knowledge, information, and reasonable belief. The signature is also a certification that the standards of FRBP 9011(b) are satisfied.

UNITED STATES BANKRUPTCY COURT

_____ District of _____

In re _____,
Debtor

Case No. _____

Chapter 13

Notice of Postpetition Mortgage Fees, Expenses, and Charges

If you hold a claim secured by a security interest in the debtor's principal residence, you must use this form to give notice of any postpetition fees, expenses, and charges that you assert are recoverable against the debtor or against the debtor's principal residence. File this form as a supplement to your proof of claim. See Bankruptcy Rule 3002.1.

Name of creditor: _____

Court claim no. (if known): _____

Last four digits of any number you use to identify the debtor's account: _____

Does this notice supplement a prior notice of postpetition fees, expenses, and charges?

- No
 Yes. Date of the last notice: ____/____/____

Part 1: Itemize Postpetition Fees, Expenses, and Charges

Itemize the fees, expenses, and charges incurred on the debtor's mortgage account after the petition was filed. Do not include any escrow account disbursements or any amounts previously itemized in a notice filed in this case or ruled on by the bankruptcy court.

Description	Dates Incurred	Amount
Late charges	_____	\$ _____
Non-sufficient funds (NSF) fees	_____	\$ _____
Attorney fees	_____	\$ _____
Filing fees and court costs	_____	\$ _____
Bankruptcy/Proof of claim fees	_____	\$ _____
Appraisal/Broker's price opinion fees	_____	\$ _____
Property inspection fees	_____	\$ _____
Tax advances (non-escrow)	_____	\$ _____
Insurance advances (non-escrow)	_____	\$ _____
Property preservation expenses. Specify: _____	_____	\$ _____
Other. Specify: _____	_____	\$ _____
Other. Specify: _____	_____	\$ _____
Other. Specify: _____	_____	\$ _____
Other. Specify: _____	_____	\$ _____

The debtor or trustee may challenge whether the fees, expenses, and charges you listed are required to be paid. See 11 U.S.C. § 1322(b)(5) and Bankruptcy Rule 3002.1.

Part 2: Sign Here

The person completing this Notice must sign it. Sign and print your name and your title, if any, and state your address and telephone number if different from the notice address listed on the proof of claim to which this Supplement applies.

Check the appropriate box.

- I am the creditor.
- I am the creditor's authorized agent.
(Attach copy of power of attorney, if any.)

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

X _____ Date ____/____/____
Signature

Print: _____ Title _____
First Name Middle Name Last Name

Company _____

Address _____
Number Street
City State ZIP Code

Contact phone (____) ____-____ Email _____

COMMITTEE NOTE

This form is new and applies in chapter 13 cases. It implements Rule 3002.1, which requires the holder of a claim secured by a security interest in the debtor's principal residence – or the holder's agent – to file a notice of all postpetition fees, expenses, and charges within 180 days after they are incurred. The notice must be filed as a supplement to the claim holder's proof of claim, and it must be served on the debtor, debtor's counsel, and the trustee.

The individual completing the form must sign and date it. By doing so, he or she declares under penalty of perjury that the information provided is true and correct to the best of that individual's knowledge, information, and reasonable belief. The signature is also a certification that the standards of FRBP 9011(b) are satisfied.

United States Bankruptcy Court

District of _____

In re _____,
Debtor

Case No. _____

Small Business Case under Chapter 11

[NAME OF PROPONENT]'S PLAN OF REORGANIZATION, DATED [INSERT DATE]

* * * * *

**ARTICLE VIII
GENERAL PROVISIONS**

* * * * *

1 8.02 Effective Date of Plan. The effective date of this Plan is the
2 ~~eleventh~~ first business day following the date that is fourteen days
3 afterof the entry of the order of confirmation. ~~But if, however, a~~
4 stay of the confirmation order is in effect on that date, the effective
5 date will be the first business day after ~~that~~ the date on which ~~no~~the
6 stay of the confirmation order expires or is otherwise terminated is
7 ~~in effect, provided that the confirmation order has not been~~
8 vacated.

COMMITTEE NOTE

Provision 8.02 of Article VIII of the form, which specifies the plan's effective date, is amended to reflect the change in the time periods of Rules 3020(e) and 8002(a) for a stay of the confirmation order and the filing of a notice of appeal. As of December 1, 2009, both time periods were increased from ten to fourteen days. The effective date of the plan will generally be the first business day after those time periods expire. Accordingly, the effective date of the plan is extended to the first business day following the date that is fourteen days after the entry of the order of confirmation. If, however, a stay of the confirmation order remains in effect on the specified effective date, the plan will instead go into effect on the first business day after the stay expires or is terminated, so long as the order of confirmation has not been vacated.