

Amendment to Rules 3001 and New Rule 3002.1

Tom Black

09-BK-055

Rules_Comments

02/10/2010 11:54 AM

I am writing in support of the amendment to Rule 3001, and the new Rule 3002.1. I am a consumer bankruptcy attorney, and have been since 1982. I am Board Certified by the Texas Board of Legal Specialization in Consumer Bankruptcy Law.

With respect to the amendment to Rule 3001, requiring a copy of the last account statement, and an itemized statement of interest, fees and charges, and other changes, all I can say is that the proposed changes are long overdue. Particularly with respect to unsecured claims being collected by debt buyers, it's 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 amount sought are small individually, I'm sure that collectively there are many millions of dollars being collected through the bankruptcy system that are either just plain not due, or time barred. This reduces the money that should be paid to legitimate claimants. I support the proposed changes to Rule 3001.

Regarding new Rule 3002.1, we here in Houston have such a rule now, as part of the Bankruptcy Local Rules for the Southern District of Texas. It is critical protection for mortgagors. 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 (a notorious default 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. I also support the changes to Rule 3002.1, to make such procedures national in scope.

Thank you, Tom Black

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