


**Re: Proposed amendment to Rule 3002(a)**
**Rules Support** to: A Benjamin Goldgar

05/31/2011 08:31 AM

Sent by: **James Ishida**

Cc: Keith Lundin, Rules Support, Eugene Wedoff, S. Elizabeth Gibson, troy.mckenzie, Peter\_McCabe, Andrea Kuperman, James Wannamaker, Scott Myers, LiAnn Shepard, Rick R. White

Dear Judge Goldgar,

Thank you for your email suggesting an amendment to Bankruptcy Rule 3002(a). I'm forwarding your suggestion to the chair and reporters to the Bankruptcy Rules Committee for their consideration. I apologize for how your suggestions may have been handled in the past. We will keep you posted on any action taken on this suggestion. You may of course also contact us anytime for an update at 202-502-1820.

Thank you again for your suggestion and for your continued interest in the federal rulemaking process.

Best,

James Ishida

A Benjamin Goldgar	<a href="#">Why is it that Rule 3002(a) only requires "[a]n...</a>	05/28/2011 08:32:57 PM
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From: A Benjamin Goldgar/ILNB/07/USCOURTS  
 To: Rules Support/DCA/AO/USCOURTS@USCOURTS  
 Cc: Keith Lundin/TNMB/06/USCOURTS@USCOURTS  
 Date: 05/28/2011 08:32 PM  
 Subject: Proposed amendment to Rule 3002(a)

Why is it that Rule 3002(a) only requires "[a]n unsecured creditor or an equity security holder" to file a proof of claim? Why not a secured creditor, too? The omission has caused tons of confusion, according to Judge Lundin in his authoritative Chapter 13 treatise, since the Rule appears to conflict with the Code. The case law, which is all over the map on this one, certainly bears out Judge Lundin's assessment. But the omission has never been fixed, for reasons Judge Lundin (for one) is at a loss to explain.

I suggest the rule be amended to say: "A creditor or an interest holder must file a proof of claim . . ."

I make this suggestion advisedly, since I have proposed other changes in the past without receiving any reaction at all from the Committee. These suggestions (and others, as far as I can tell) have simply languished in a neither-rejected-nor-accepted purgatorial state. Nonetheless, I offer this one in the hope that it will at least be rejected, which would be better than having it ignored.

Ben Goldgar

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