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To: [RulesCommittee Secretary](#)
Cc: [Michael Dowling](#)
Subject: Suggested change to bankruptcy form 410A
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I wish to suggest a change to the Mortgage Proof of Claim Attachment (Official Form 410A).

A chapter 13 debtor may propose a so-called “cure and maintenance” plan, under which the debtor maintains all contractual payments due under the contract and pays an additional amount sufficient to cure any default within a reasonable time. 11 U.S.C. 1322(a)(5). The contract and applicable nonbankruptcy law determine the amount of the required cure payments. 11 U.S.C. 1322(e).

I recently decided that, where the debtor proposes cure and maintenance treatment of a mortgage debt, the debtor must pay interest, at the contract rate, on any principal amounts that are included in the arrearage. In *re Silla*, 2022 WL 243209, Case No. 21-01032 (Bankr. D. Haw. Jan. 26, 2022). I made this decision based on the note and mortgage that the debtor signed and Hawai'i law. But because the note and mortgage were the standard Fannie Mae/Freddie Mac forms and Hawai'i law is pretty standard in this respect, I think the same analysis would apply to many claims.

In the *Silla* case, it was fairly easy to calculate the principal amount based on the information contained in Official Form 410A. Part 3 states the amount of principal and interest due, part 2 states the amount of interest due, and simple subtraction yields the amount of delinquent principal. The calculation would have been more complicated if there had been an escrow shortage or surplus, if there were funds held in suspense, etc.

The calculation was also fairly easy because the creditor filled out the form correctly and completely. Unfortunately, this is not always the case.

I suggest that Part 3 of the form be amended so the creditor must separately list the amount of principal due and the amount of interest due. In other words, instead of one line for “principal and interest due,” there should be two lines, one for principal due and the other for interest due.

I think that the creditor should make this calculation rather than the chapter 13 trustee, particularly because I expect that a fair number of these forms will be incomplete, inconsistent, or incorrect. The creditor should bear the burden of giving the debtor and the trustee all information about the claim that is required to determine whether the plan treats the creditor’s claim correctly.

Thank you for your attention.

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