

**SUMMARY OF B-LINE, LLC'S FEBRUARY 5, 2010 TESTIMONY  
REGARDING PROPOSED AMENDMENTS TO FED.R.BANKR.P. 3001**

Background

- B-Line, LLC's business is purchasing and servicing bankruptcy receivables.
- *In re Andrews*, 394 B.R. 384 (Bankr. E.D. N.C. 2008).
- 2008-2009 statistics on claims/transfers filed nationwide with breakdown on the type of objections to claims received.

Legal Discussion

- Proposal conflicts with the Rules Enabling Act and the Constitution with respect to 11 U.S.C. §§ 501-502 in creating a new basis to object or disallow a claim. *See Travelers Cas. and Sur. Co. of America v. Pacific Gas and Elec. Co.*, 549 U.S. 443 (2007) and supporting majority decisions nationwide regarding limitations on the basis to object to a claim.
- Violation of due process when imposing sanctions against a creditor who cannot comply with the itemization requirement due to the terms of the existing contract between the debtors and the creditor.
- Federal Civil Rule 15 and case law permitting liberal amendments in the interest of justice; analogy between the proof of claim process to federal civil complaint and the federal civil standard of notice pleading per Federal Civil Rule 8(a).
- Disconnect with 11 U.S.C §§ 501 - 502 permits claims that are unenforceable and disputed, but a creditor who files a claim without documentation and itemization on an owed debt is sanctioned.
- Disconnect with Electronic Signatures in Global and National Commerce Act. 15 USC § 7001, *et seq.* that acknowledges electronic data equivalent to the original documents.

Outcome: Unduly burden creditors without benefiting the bankruptcy claims process or providing any meaningful relief to debtors:

- As required by various federal laws and regulations, the debtors already receive each and every monthly statement;
- Almost all the debts are scheduled by the debtors as due and owing at either the exact or similar amount listed on the proof of claim;
- Electronic data more reliable and accurate than original documents or last statement. The last statements sent to the debtors do not provide any information on the nature of the debts, as the balance listed on the statement is a summation of possibly thousands of transactions over the course of many years. The last statement sent to the debtor does not provide an updated prepetition balance since payments or interest may have accrued after the last statement;
- Unintended consequences include decrease in allowance of legitimate claims with an increase of satellite litigation because of the proposed one-sided sanctions; increase uncertainty on redaction of documents for creditors.

Recommendations:

Bankruptcy court confusion regarding what is minimum requirement for "prima facie validity" per range of case law nationwide.

Define minimum threshold for "prima facie validity" under Federal R. Bankr. P. 3001 as providing the following information to a claim plus the last statement sent to the debtor: 1) name of creditor/claimant; 2) name of assignor (if applicable); 3) account open date; 4) name of account holders/debtors; 5) last payment date; 6) last payment amount; 7) last purchase date; 8) last purchase amount; 9) charge off date (if applicable); 10) prepetition balance; 11) original account number; 12) secondary account number (if applicable); 13) original creditor/issuer name; 14) related vendor or branding name (if applicable); and 15) account holders/debtors redacted social security number for identification purposes.

Remove itemization requirement since credit card accounts cannot comply since contractually interest becomes principal. Remove prohibition against amendments of claims and one-side sanctions.