

Fwd: NACBA - Last Chance to Comment on Important Bankruptcy Rule Changes
Ann N. Nguyen, Esq.

Rules_Comments
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I think that the new amendment as stated in the below email is a wonderful idea. This will make the creditors do the work to show where the numbers on their proof of claim came from, versus the debtor attorneys having to figure this all out.

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From: <barbara.andelman@nacba.org>
Date: Wed, Feb 10, 2010 at 6:58 AM
Subject: NACBA - Last Chance to Comment on Important Bankruptcy Rule Changes
To: mass@cwe.nacba.org

 Official NACBA Communication

As we notified you two weeks ago, the Advisory Committee on Bankruptcy Rules is considering very important changes to the Rules of Bankruptcy Procedure to deal with mortgage and debt buyer abuses. Although NACBA has over 4,600 members, only a handful of members have commented in support of these rules and there are not even as many comments by NACBA members as there are by

creditors and debt buyers who oppose the rules. The deadline for comments is less than a week away.

Commenting on the rules could not be easier. Just send an email to Rules_Comments@ao.uscourts.gov. Your comment can be only a few sentences about the problems you see and how the new rules will help. It is critical that we have a lot more comments in support of these rules and suggesting that, if anything, they should be strengthened. You may want to look at Dave Shaev's testimony on behalf of NACBA at a hearing on the new rules and other comments at http://www.uscourts.gov/rules/2009_Bankruptcy_Rules_Comments_Chart.htm to get ideas for your own comments.

Below is a description of the rules changes from our prior email:

The Bankruptcy Rules Advisory Committee is considering two very important sets of amendments to the Bankruptcy Rules. The first set would amend Rule 3001 to require that a proof of claim include, if the claim is based on an open end credit agreement (like a credit card), a copy of the last account statement. In addition, any proof of claim must include an itemized statement of interest, fees and charges, the amount necessary to cure a default on a secured debt, and an escrow statement for a home mortgage. Failure to include information required would normally preclude the creditor from introducing it in evidence in any proceeding.

A new Rule 3002.1 would require mortgage lenders to provide notice to the debtor, debtor's counsel, and trustee of all payment changes, and of all fees and charges assessed to the debtor's account, and provide an opportunity for the debtor to object. It also establishes 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.

The proposed rules are available at:

http://www.uscourts.gov/rules/proposed0809/BK_Rules_Forms_Amendments.pdf

Barbara Andelman, Executive Director