

**Rule changes 3001 and 3002**

Richard Croak o Rules_Comments

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I write to indicate my support for the proposed rule changes. I file on behalf of debtors a large number of bankruptcy cases (about 300 a year).

Rule 3001

After confirmation of a chapter 13 case I am consistently confronted by claims filed by creditor who are not on the original schedules but members of the debt buyers industry. (I see that this group has written to the committee to say how burdensome the rule change would be.) Few of these claims are consistent with the prior information provided to the three major credit reporting agencies by the original creditors. I know this because my firm obtains a current report from all three agencies in each case. The debt buyers when called regarding inaccuracies exhibit a cavalier attitude regarding their claims; since after all the evidentiary burden is all upon the debtor, and few Courts will pay any fee to a debtor's attorney for claims objections. They are further justified in their approach as currently no penalties are imposed for inaccurate claims. If a claim is over stated or just wrong, it still gets paid unless the debtor or trustee objects. The current rule's minimal standards are not complied with until a motion is made to disallow the claim thereby requiring the objector to write an objection without knowing anything about the basis for the claim. The response to any objection is the bare compliance with the current rule, and there is no penalty for a failure to comply or a clearly false claim. The current standard that grants to every claim filed a presumption of validity is based on a system of trust. As Ronald Reagan said "Trust but Verify" the proposed changes would go a long way toward requiring that claims be reasonably verified. Oddly the principle beneficiary is the honest creditor who receives a higher distribution on an honest claim. That being the case those who object to more verification should be viewed with suspicion.

Rule 3002.1

Several years ago I had a client who had very limited means but scrupulously made his chapter 13 payments and mortgage payments. He had a small default on his mortgage payments when he filed but remained current after. He died unexpectedly and the following month the mortgage holder moved to modify the stay and foreclose as the case was no longer feasible. The client's executor asked that I keep the case open temporarily as she had a pending sale for the debtor's house. An order of sale was obtained and the sale date set. When the mortgage holder's payoff letter arrived in the closing attorney's office he called me to say the amount was \$15,000 higher than expected. We closed the house on the Bankruptcy Court's order and escrowed the disputed amount. It took months of litigation before the Court finally found that the bank had nothing to support its additional charges. It had been simply adding for property taxes that they had not paid, for inspections never made, and defaults that had not occurred. Had the debtor lived he would have been confronted by these at the end of his case. His untimely death exposed the bank's fraudulent charges. The proposed changes clearly benefit the debtor and the honest creditor. The burden if any falls on those who seek to slip something over on the system.

Thank you for the opportunity to comment.

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