



proposed rules comments :Bankruptcy Rules 3001, 3002.1

Ken Rannick o Rules_Comments

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Dear Members of the Bankruptcy Rules Committee:

I am a bankruptcy practitioner in consumer cases. I strongly support the following proposed rule changes.

Rule 3001 to should 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 should 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.

We commonly see discrepancies between proofs of claims and the statements, obtaining reconciliations is almost impossible, and it is certainly not cost effective for most debtors to do so.

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. I find it is sometimes necessary to have a debtor reenter a Chapter 13 or file a subsequent case to clean up a discrepancy in the previous case. The proposed rule will establish 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. This exit accounting is great. It provides a reconciliation between the Chapter 13 Trustee's accounting software and the system software of the mortgage servicer. Under BAPCPA I now have my chapter 13 plans direct the application of payments. This rule will help enforce these confirmed plan provisions.

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