

From: "Sabrina McKinney" <mckinneys@ch13mdal.com>
To: <Rules_Support@ao.uscourts.gov>
Date: 06/24/2011 10:09 AM
Subject: Form B10 - (Official Form 10)(4/10) - Proof of Claim form

Dear Sirs: I wanted to take this opportunity to call to your attention the problems that we are having with Form B10 in its current version (4/10). The claim form does not currently have a space for creditors to fill in for general unsecured claims only. As there is no space for unsecured claim amount, it causes confusion for creditors who file claims and confusion for our office when trying to administer the claims filed. When and if the proof of claim form - Form B10 (official form 10) – is reconsidered by the Rules Committee, we would appreciate your consideration of returning to the 4/07 version of form B10 as version 4/07 provides a space for all claim types. It leaves less room for error and is easier to administer in chapter 13 cases. Thank you for your consideration.

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From: James_Ishida@ao.uscourts.gov [mailto:James_Ishida@ao.uscourts.gov] **On Behalf Of**
Rules_Support@ao.uscourts.gov
Sent: Thursday, June 30, 2011 8:16 AM
To: Sabrina McKinney
Subject: Re: Form B10 - (Official Form 10)(4/10) - Proof of Claim form

Dear Ms. McKinney,

The Rules Committees recently approved amendments to Form 10, which I've attached. I'm no bankruptcy expert by any stretch, but I noticed in the revised form places where a creditor could record unsecured claims. Would this help you?

Let me know your thoughts. Thanks,

James N. Ishida
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Office of Judges Programs
Administrative Office of the U.S. Courts
One Columbus Circle, NE
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From: "Sabrina McKinney" <mckinneys@ch13mdal.com>
To: <Rules_Support@ao.uscourts.gov>
Date: 07/05/2011 02:30 PM
Subject: RE: Form B10 - (Official Form 10)(4/10) - Proof of Claim form

No, it really does not resolve the issue. The place for unsecured debt on this new form is only for the unsecured portion of secured debts. I do not read this new form to provide a place for unsecured creditors with only unsecured claims. To us, the "perfect" claim form would be one like I've attached to this email or to the email that I sent earlier. I appreciate very much your response. It is very kind of you to so promptly reply to my inquiry on this subject! I hope that you had a good 4th weekend. slm

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From: James_Ishida@ao.uscourts.gov [mailto:James_Ishida@ao.uscourts.gov] **On Behalf Of**
Rules_Support@ao.uscourts.gov

Sent: Thursday, June 30, 2011 8:16 AM

To: Sabrina McKinney

Subject: Re: Form B10 - (Official Form 10)(4/10) - Proof of Claim form

OK, thanks Ms. McKinney.

I will forward your suggestion to the chair and reporters to the Bankruptcy Rules Committee, as well as

my colleagues in the AO's Bankruptcy Judges Division, for their consideration,. We will docket your suggestion, post it on our Federal Rulemaking web site, and send you a letter formally acknowledging it. The letter will describe how you can track progress on your suggestion. You may also contact us anytime for an update.

On behalf of the Rules Committees and AO, I'd like to thank you very much for your suggestion. It plays a valuable role in improving the bankruptcy system.

All the best,

James

From: Scott_Myers@ao.uscourts.gov [mailto:Scott_Myers@ao.uscourts.gov]
Sent: Thursday, July 07, 2011 11:08 AM
To: Sabrina McKinney
Cc: James_Ishida@ao.uscourts.gov; James_Wannamaker@ao.uscourts.gov
Subject: RE: Form B10 - (Official Form 10)(4/10) - Proof of Claim form

Sabrina,

I provide staff support the Bankruptcy Rules Committee, and I am wondering if you could help me understand why your staff finds the current version of the form confusing with respect to calculating the general unsecured claim amount.

In both the current version and the version that will go into effect this December, the creditor puts the amount of the claim in box 1. Unless the creditor also puts an amount in box 4 (secured) or 5 (priority), the amount in box 1 is a general unsecured claim. If the creditor *does* have an amount in box 4 or 5, the general unsecured claim amount will be the difference, if any, between box 1 and box 4 or 5.

As you point out, prior to 12/07, we asked the creditor to do the math by first characterizing the claim as nonpriority unsecured, priority unsecured, or secured, and then making the creditor total the amounts. The problem was that the creditor's math was often different than the automatic calculation done by CM/ECF (sometimes because the creditor over reported secured or priority claims when the claims was only partially secured or part priority ... and sometimes because claims are both secured and priority). So the change in 2007 was done to get better totals.

I have an intern researching this, but a cursory review of the historical versions of B10 shows that up to 1997 we had the creditors "do the math." In 1997, the form changed to require the creditor to report the total and then fill out any priority or secured amounts. In 2003 we went back to making the creditor do the math. And, as you are aware, since 12/07, the form asks for the claim amount, and then asks the creditor to report any priority or secured portions.

Based on the history, I suspect a change back to the pre-12/2007 version will resisted by some users. And going back and forth every five or six years doesn't make anyone happy. I guess my question is how does the current approach negatively impact the chapter 13 trustee, and can it be fixed by better training?

Thank you for your attention to this and for any insight you can give me.

Scott Myers
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From: "Sabrina McKinney" <mckinneys@ch13mdal.com>
To: <Scott_Myers@ao.uscourts.gov>
Date: 07/18/2011 09:17 AM
Subject: RE: Form B10 - (Official Form 10)(4/10) - Proof of Claim form

We find that a lot of unsecured creditors prepare the form incorrectly when they do not have a blank to fill out or a box to check that says unsecured. It results in many creditors marking their claims as secured or priority when in fact they are not, simply because they do not have a blank to fill out or a box to check for their unsecured status. Also, it was brought to our attention by our clerk of court that with the new version of cm/ecf, because the claim form does not have a blank to fill out as unsecured or a block to check that the new version of ecf does not have a way to tell when a claim is filed strictly as unsecured. It is very confusing when you take both the claim form and the new version of cm/ecf into account. The clerk has been told that cm/ecf will not be corrected because it is following the claim form. The designers of cm/ecf have said that they will not change cm/ecf back to the previous setting where unsecured claims are set out separately until the claim form is amended again. It is not necessarily my staff that has a problem with the form. It is the creditor who is having a problem with the form and then the form which is causing a problem with cm/ecf which makes it confusing to the outside user. We are able to decipher it, but it causes a lot of unnecessary objections to claim to be filed by debtor's attorneys which could be remedied if the form were amended. The additional objections to claim cause more workload on the Court, the clerk, the debtor's attorneys and our office. For those of us who are versed in bankruptcy, it's not so bad because we know what to look for and how to read the forms. The problem comes in with uneducated creditors and especially pro se creditors who file claims without the assistance of counsel. As you say, a lot of this could be resolved with adequate training, but the problem is not with users that I have the ability to train, it is with the creditors and outside users of cm/ecf. Thank you very much for your consideration. slm

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From: Scott Myers/DCA/AO/USCOURTS
To: "Sabrina McKinney" <mckinneys@ch13mdal.com>
Cc: James Wannamaker/DCA/AO/USCOURTS@USCOURTS, Peter
Grigg/DCA/AO/USCOURTS@USCOURTS, Robby Robinson/DCA/AO/USCOURTS@USCOURTS,
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Shepard/DCA/AO/USCOURTS@USCOURTS, James Ishida/DCA/AO/USCOURTS@USCOURTS,
Allison Holden/DCA/AO/USCOURTS@USCOURTS
Date: 07/18/2011 11:36 AM
Subject: RE: Form B10 - (Official Form 10)(4/10) - Proof of Claim form

Sabrina,

Thank you. I will ask the rules support office to append this exchange to your suggestion. It will help the advisory committee better appreciate your concerns.

Scott Myers
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UNITED STATES BANKRUPTCY COURT
<#1 DI C40>

PROOF OF CLAIM

Name of Debtor
<#85 DL c70>
<#101 JL c70>

Case Number
<#3 cn c11>

NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. §503.

Name of Creditor (The person or other entity to whom the debtor owes money or property):
RecipAddr1 replacement

Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.

<#3 cn c11>

Name and Address where notices should be sent:

RecipAddr1 replacement
RecipAddr2 replacement
RecipAddr3 replacement
RecipAddr4 replacement
RecipAddr5 replacement
RecipAddr6 replacement

Check box if you have never received any notices from the bankruptcy court in this case.
 Check box if the address differs from the address on the envelope sent to you by the court.

123456

THIS SPACE IS FOR COURT USE ONLY

Telephone Number:

Last four digits of account or other number by which creditor identifies debtor:

Check here if replaces this claim amends a previously filed claim, dated: _____

1. Basis for Claim

- Goods sold
- Services performed
- Money loaned
- Personal injury/wrongful death
- Taxes
- Other _____

- Retiree benefits as defined in 11 U.S.C. §1114(a)
- Wages, salaries, and compensation (fill out below)
Last four digits of SS your #: _____
Unpaid compensation for services performed from _____ to _____
(date) (date)

2. Date debt was incurred:

3. If court judgment, date obtained:

4. Classification of Claim. Check the appropriate box or boxes that best describe your claim and state the amount of the claim at the time case filed. See reverse side for important explanations.

Unsecured Nonpriority Claim \$ _____

Check this box if: a) there is no collateral or lien securing your claim, or b) your claim exceeds the value of the property securing it, or if c) none or only part of your claim is entitled to priority.

Secured Claim

Check this box if your claim is secured by collateral (including a right of setoff).

Brief Description of Collateral:

Real Estate Motor Vehicle Other _____

Value of Collateral: \$ _____

Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ _____

Unsecured Priority Claim

Check this box if you have an unsecured priority claim, all or part of which is entitled to priority

Amount entitled to priority \$ _____

Specify the priority of the claim:

- Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).
- Wages, salaries, or commissions (up to \$10,000),* earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4).
- Contributions to an employee benefit plan - 11 U.S.C. §507(a)(5).

- Up to \$ 2,225* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7).
 - Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).
 - Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(____).
- *Amounts are subject to adjustment on 4/1/07 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

5. Total Amount of Claim at Time Case Filed: \$ _____
(unsecured) (secured) (priority) (Total)

Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.

6. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

THIS SPACE IS FOR COURT USE ONLY

7. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.

8. Date-Stamped Copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.

Date _____ Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any): _____