



Comments on Amendments to Bankruptcy Rule 3001 and New Rule 3002.1

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I am a consumer bankruptcy attorney who sees the havoc wrought on our economy by the abuses of the credit system. Sometimes bankruptcy is the only avenue of recovery for those devastated by illness or job loss. The bankruptcy process in the United States is rooted in the Constitution, written more than two hundred years ago. Yet bankruptcy rules all too often protect the creditor to the detriment of the honest debtor.

In a Chapter 13 bankruptcy, creditors may file claims against the funds paid to the trustee under the Chapter 13 plan. The claim form under #7 provides that the creditor should "attach redacted copies of any documents that support the claim , such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary." Note that the form does not say that you may attach a summary in lieu of the supporting documents.

These are documents filed in federal court. Creditors all too often ignore the principles of proof and documentation required by law. Debt buyers, who have no proof of the underlying debt, are the most rampant violators. Please amend Rule 3001 to ensure a fair playing field for debtors. The amendment should provide that the claimant must prove ownership of the claim and statute limitations involved. It should require attachment of all contracts on which the claim is based. A claim that does not comply with the rule should be disallowed.

In regard to Rule 3002.1, mortgage creditors claim undocumented and fantastical charges in Chapter 13 claims. They have refused to develop proper accounting to comply with the law and the provisions of Chapter 13 plan payments. Often after completion of the Chapter 13 plan debtors receive statements demanding thousands of previously undisclosed and illegal charges. Please enact Rule 3002.1 to ensure that homeowners truly receive the fresh start promised by the Bankruptcy Code.

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