

**Comments on proposed Bankruptcy Rules**

Aaron C. Amore o Rules_Comments

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Dear Members of the Rules Advisory Committee:

I am writing in support of the new proposed rules.

Rule 3001. Requiring creditors to document their claims would greatly assist the entire claims process. We are often faced with one (1) page claims forms which have little to no information about the claim itself, who is entitled to payment and whether it is allowable under the code and the rules. The total balance allowed often includes attorneys fees, proof of claim fees and other miscellaneous fees most of which are not permitted absent court approval under Rule 2016 and may also violate underlying state law.

The additional provisions of new Rule 3002.1 are critical to assuring proper claims are allowed in a chapter 11, 12 and 13 bankruptcy cases. All too often I see all sorts of illegal fees that are lumped into a proof of claim, including attorneys fees, property preservation fees, proof of claim fees, processing fees and a wide range of other miscellaneous fees which are not considered principal and/or interest. Mortgage servicers will often apply post filing payments to the earliest debt and not consider them as pass through payments on the current obligation. This results in an inappropriate motion for relief from stay even though the debtor is current on his monthly payments to the trustee in a mortgage pass through case. Debtors then need to respond, the trustee often files a response and the Court has to take the matter up in due course. These motions cause confusion and delay.

I have also seen creditors take the deficient pre-petition escrow payments, lump them into one amount and attempt to recoup the entire amount by re-calculating the escrow payment with repayment over a 12 month period (as if it were a post petition obligation). In the current system, I have to ask for the mortgage creditor to provide a life of loan payment history and other related documents to determine if the arrearage claim is valid and the on-going monthly mortgage payments are also valid. If the creditor does not voluntarily provide the information I have to seek it in the form of formal discovery requests.

All of this creates significant work for debtor's counsel, the trustee and the Court. It often creates more work for creditors counsel, as they are left to seek the same information from their own client, which is often as fruitless as my voluntary requests. The work then creates delay, meaning fewer cases are confirmed and at the conclusion of the case there are often issues as to whether the default has been cured during the life of the plan.

The easiest method would be to require the creditors to provide this information in the proof of claim when filed so that all parties can properly determine the allowable amounts and set

firm figures so a plan can be confirmed within the time period contemplated by the code or at least after the claims period has expired.

Please consider these comments and my strong support for the proposed rule changes as set forth above.

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