

**The Needle Mountains:**  
Threading Through the  
Impact of the New Federal  
Rules

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CONSUMER WORKSHOP II:  
THE NEEDLE MOUNTAINS:  
THREADING THROUGH THE IMPACT  
OF THE NEW FEDERAL RULES

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## **I. IMPACT OF THE NEW FEDERAL RULES ON CONSUMER PRACTICE**

### **A. AMENDED RULE 3001 AND RULE 3002.1**

Amended Rule 3001 and new Rule 3002.1 became effective December 1, 2011. Amended Rule 3001 and new Rule 3002.1 require substantially more disclosure and notice, pertaining to both pre-petition arrears and post-petition payments and assessment of fees and charges. These rules are intended to address and reform bankruptcy procedure and practice to permit debtors to ensure they emerge from bankruptcy with a fresh start.

#### **1. Amended Rule 3001**

In summary, proposed amended Rule 3001 requires greater detail in reference to supporting information required to accompany certain proofs of claim. In cases in which the debtor is an individual, the amendments also impose penalties for failing to provide the required information. The additional information includes:

- An itemized statement of pre-petition interest, fees, expenses and other charges incurred;
- A statement of the amount necessary to cure any pre-petition default on a claim secured by the debtor's property;
- and, for a claim secured by the debtor's principal residence, an escrow account statement as of the petition date if an escrow account has been established.

If a creditor fails to comply, the court may bar the creditor from presenting such omitted information in a subsequent proceeding. Additionally, subdivision (c)(2) also authorizes the imposition of sanctions on a creditor who fails to provide the information required.

## 2. New Rule 3002.1

New Rule 3002.1 requires that specific notice be provided to a debtor during the pendency of his/her case regarding notice of payment changes, fees assessed to the loan, and a notice of a “final cure payment,” reflecting any outstanding amounts due after the debtor’s completion of all payments required under the plan. A committee note further clarifies that the rule applies in all districts, regardless of whether ongoing mortgage payments are made directly by the debtor or by the chapter 13 trustee. Specifically, Rule 3002.1 requires the following:

### Notice of Payment Change

- Creditor shall file with the court and serve on the trustee, debtor and debtor’s counsel any payment change notice due to interest or an escrow change 21 days before the effective date of the change.
- Creditor shall file such notice with the court as a supplement to the proof of claim.

### Notice of Fees, Expenses and Charges (applies to holder of claim secured by debtor’s principal residence and provided for by 11 U.S.C. § 1322(b)(5))

- Creditor shall file with the court and serve on the trustee, debtor and debtor’s counsel, a notice that itemizes all post-petition fees, expenses, or charges incurred in connection with the claim that the holder asserts are recoverable against the debtor or debtor’s principal residence.

- File such notice as a supplement to the proof of claim and serve no later than 180 days after the date the service or fee was “incurred.”

Should the debtor or trustee contest the validity or amount of the fees, expenses or charges, the debtor or trustee may file a motion requesting the court to review the same within one year after the service of the notice. The court shall then hold a hearing to determine whether the fee or charge should be paid pursuant to the underlying agreement and applicable non-bankruptcy law in order to cure the default under 11 U.S.C. §\_1322(b)(5).

Notice of Final Cure Payment - Rule 3002.1(f)

- No later than 30 days after making final payment of any cure amount on a claim secured by the debtor’s principal residence, the trustee (or debtor’s attorney) shall file and serve upon the holder of the claim, debtor and debtor’s counsel notice stating that the amount to cure the default has been paid in full.

Statement - Rule 3002.1(g)

- No later than 21 days after the service of the notice, the holder of the claim shall file and serve on the debtor, debtor’s counsel and the trustee a statement indicating: (1) whether it agrees the debtor has paid in full the amount required to cure the default; and (2) whether the debtor is otherwise current on all payments.
- The statement shall further itemize the required cure or post-petition amounts, if any, that the holder contends remain due as of the date of the statement.
- The statement shall be filed as a supplement to the holder’s proof of claim.

Should the debtor or trustee contest the amount or any amount specified in the itemized statement, the debtor or trustee may file a motion requesting the court to review the same within

one year after the service of the notice. The court shall then hold a hearing to determine whether the debtor has cured the default or paid all required post-petition amounts in full.

If the holder fails to provide the statement or other information required under 3002.1(i), the holder shall be precluded from presenting the omitted information, in any form, as evidence in any hearing, or submission in any contested matter or adversary proceeding in the case, unless the court determines that the failure was substantially justified or is harmless. Additionally, the court may, after notice and a hearing, award other appropriate relief, including reasonable expenses and attorney's fees caused by the creditor's failure.

Although amended Rule 3001 and new Rule 3002.1 provide a uniform procedure for mortgage creditors to file and substantiate proofs of claim, and provide notice to the debtor and trustee of payment changes and other fees and charges accruing on a loan during the pendency of a Chapter 13 plan, amended Rule 3001 and new Rule 3002.1 also present a litany of issues for the creditor and the courts to decipher. Implementing these new federal requirements with already existing local rules and decisions addressing plan language issues will likely be a challenge for both creditors and debtors.

## **B. FORMS**

In conjunction with the changes to the Federal Rules of Bankruptcy Procedure Rule 3001 and the addition of Rule 3002.1, amended and new official forms have also been approved. The forms were approved by the Judicial Conference in September 2011 and took effect December 1, 2011. Copies of the official forms are included in these materials. Several other forms changed at the same time and are briefly detailed below, but not included in the materials.

### **1. Bankruptcy Form 10, Attachment A, and Supplements 1 & 2**

The Proof of Claim form has several changes, both obvious and subtle which serve to both clarify the form and implement the changes to Rule 3001 and the addition of Rule 3002.1. The claim form has several new sections, and a few significant changes to the existing sections. Perhaps more significant are the new additions to Form 10, which implement the new provisions of the rules.

#### Proof of Claim Form 10

A new section, 3b, is added to the Proof of Claim form to provide a space for creditors to enter their 24 character identifier. These identifiers, used by some large creditors to facilitate electronic funds transfers from the Chapter 13 trustees, are not required and may not be used by many creditors.

Minor changes to section 4 help to clarify that the interest rate listed on the claim form must be the interest as of the date of filing, and provide a check box to indicate whether that interest rate is fixed or variable.

Section 7 was amended to clarify the types of documentation that should be attached to the claim. There is also a change which allows for the attachment of summaries of the account to be filed as an *addition* to the other documentation required. The section makes clear that writings supporting a claim or evidencing perfection of a security interest *must* be attached, the summaries along are no longer sufficient.

The new Proof of Claim form significantly expands Section 8. The Committee Notes indicate that the expansion was intended to “impress upon the filer the duty of care that must be exercised in filing a proof of claim.” To that end, there is a new signature declaration which provides: “I declare under penalty of perjury that the information provided is true and correct to the best of my knowledge, information and reasonable belief.” The signer must also indicate

their capacity for signing and an area has been added for the preparer to include their name, title, company and address, if different from the address that appears earlier on the form.

Finally, the instructions for Form 10 are expanded to include more detailed descriptions and definitions.

Perhaps more significant are the new additions to Form 10, which implement the new provisions of the rules.

#### Attachment A

This is a brand new form titled “Mortgage Proof of Claim Attachment.” The form implements the requirements of Rule 3001(c)(2) and is required to be filed with the Proof of Claim by any creditor holding a security interest in the debtor’s primary residence. Part 1 requires an itemization of the principal and interest due on the account as of the date of filing. Part 2 lists fees, expenses and other charges which are being added to the claim and requires details regarding the amount and the date incurred for fourteen specific categories of additional expenses. Finally, Part 3 calculates the amount necessary to cure default as of the petition date, and requests attachment of an escrow account statement prepared as of the petition date.

#### Supplement 1

The first of two forms intended to implement the provisions of new Rule 3002.1, Supplement 1 is titled: “Notice of Mortgage Payment Change.” Rule 3002.1 requires the holder of a claim secured by an interest in the debtors’ principal residence (or the holder’s agent) to provide notice of any changes in the ongoing mortgage installment payments due during the course of the debtors’ Chapter 13 Plan. This notice must be filed at least 21 days prior to the effective date of the change.

Supplement 1 provides three sections for the holder to indicate the reasons for the change in payment: (1) Escrow Account Payment Adjustment; (2) Mortgage Payment Adjustment; or (3) Other Payment Changes. The notice requires a signature declaration, similar to that found in Form 10, and provides space for the name, title and address of the preparer.

### Supplement 2

This third new form related to the filing of claims is another implementation of Rule 3002.1. Supplement 2 is titled “Notice of Postpetition Mortgage Fees, Expenses, and Changes.” This supplement must be filed not later than 180 days after fees or charges have been incurred during a Chapter 13 case. The form provides a listing of possible charges or fees that may be imposed postpetition. There is a declaration in the signature block which is identical to that in Supplement 1. If this form is filed by a holder, the debtor or trustee may file a motion, within one year of the notice, asking the court to determine whether any fee is required by the agreement and nonbankruptcy law to cure the default and maintain payments pursuant to 1322(b)(5).

## **2. Other Bankruptcy Form Changes**

Several other forms were also updated or changed as of December 1, 2011. Of note are the following:

### Form 1 – Voluntary Petition

The Voluntary Petition was changed to implement new Rule 1004.2, which requires an entity filing a Chapter 15 petition to provide details of the country of the debtor’s main interests and to list each country in which a case involving the debtor is currently pending.

Form 25A – Plan of Reorganization in Small Business Case under Chapter 11

The model Chapter 11 small business plan was amended to reflect the 2009 changes to the time calculation and deadlines which increased from 10 to 14 days the time to file a notice of appeal and the duration of the stay of a confirmation order.

Director's Form 240 A/B ALT – Reaffirmation Agreement

While the form does not require approval of the Judicial Conference, a change to this form was made to accommodate the amendments made to Section 524(k)(3)(J) by the Bankruptcy Technical Corrections Act of 2010. The only changes appear on page five in the response to the frequently asked question, “What if your creditor has a security interest of lien?”

**C. RULE 4004**

The amendments to Rule 4004 provide that a party may seek an extension of time, based on newly discovered information, to object to a debtor's discharge after the time for objecting expires but before a discharge is granted. In some cases the court does not enter a discharge immediately after the objection deadline passes. A gap period — between the expiration of the time for objecting and the actual entry of a discharge — is created during which a party may discover information that would have provided a basis for objecting had it been known in time to object. When the discharge is later entered, revocation of the discharge under § 727(d) of the Bankruptcy Code may not be available based on information acquired in the gap period, because some grounds for revocation require the complaining party to have learned of the debtor's misconduct after the entry of the discharge. The amendments allow a party in that circumstance to file a motion for extension of time to object to the debtor's discharge even though the objection period has expired.

The Committee decided that the purpose of the amendment is to arrive at the same result as would occur if the discharge were entered promptly after the expiration of the Rule 4004(a) deadline and thus no gap existed. In that situation, § 727(d) would determine whether acts committed or discovered after the discharge would provide a basis for revocation, and not all acts that might have resulted in denial of the discharge would qualify as grounds for revocation. A sentence was added to the Committee Note to clarify that the amended rule authorizes an extension of time to object to discharge whenever a debtor commits an act during the gap period that provides a basis for both denial and revocation of the discharge.

## **II. CHANGES ON THE HORIZON**

In addition to the changes to the Federal Rules of Bankruptcy Procedure and the Official Forms, effective December 2011, there is another round of revisions that should be effective December 2012. Here are a few highlights to review in the coming months.

### **A. Proposed Amendments to the Rules**

Rule 1007(b)(7). This amendment would permit personal financial management providers to notify the Court directly of a debtor's completion of the course. The amendment would relieve the debtor from having to file Official Form 23, as long as their course provider notified the Court that the course was completed. The goal of the amendment is to reduce the number of cases which are dismissed or closed without a discharge in cases where the debtor has completed the financial management course, but fails to file the proper form and certificate.

Rule 3007(a). On the suggestion of the Bankruptcy Judges Advisory Group, the rule would be amended to allow the use of negative notice procedures for objections to claims and would clarify the method for serving claim objections. Specifically, the amendment would eliminate the requirement that a hearing be held for every objection, and place the burden on the

claimant to request a hearing after notice of an objection to claim. Additionally, the amendment will clarify the service requirements for claims objections to provide that service should be made via first-class mail to the person designated in the proof of claim for receipt of notices. Service on federal agencies and insured depository institutions will be made according to Rule 7004(b)(4) and (5).

### **B. Proposed Form Changes**

Official Form 6C (Schedule C – Property Claimed as Exempt). Pursuant to the Supreme Court’s decision in *Schwab v. Reilly*, 130 S. Ct. 2653 (2010), the form would be amended to provide a new option, permitting the debtor to state the value of the claimed exemption as “the full fair market value of the exempted property.” The proposed form would have two options in the value column, one that provided for a dollar amount limitation on the exemption and one for the full fair market value. The debtor would check the appropriate box for each exemption.

Official Forms 22A (Chapter 7 Statement of Current Monthly Income and Means-Test Calculations) and 22C (Chapter 13 Statement of Current Monthly Income and Calculations of Commitment Period and Disposable Income). Both forms would be amended to make adjustments in the deduction for telecommunication expenses based on differences between the Form 22 and the section of the IRS Financial Analysis Handbook.

Additionally, Form 22C would be amended in response to the Supreme Court’s decision in *Hamilton v. Lanning*, 130 S. Ct. 2464 (2010). A question will be added to Form 22C in which above median-income Chapter 13 debtors would list any changes in the income and expenses reported on the form that have already occurred or are virtually certain to occur during the 12 months following the filing of the petition.

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**Rule 3001. Proof of Claim**

1

\* \* \* \* \*

2

(c) SUPPORTING INFORMATION.

3

(1) Claim Based on a Writing. When a claim, or

4

an interest in property of the debtor securing the claim, is

5

based on a writing, the original or a duplicate shall be filed

6

with the proof of claim. If the writing has been lost or

7

destroyed, a statement of the circumstances of the loss or

8

destruction shall be filed with the claim.

9

(2) Additional Requirements in an Individual

10

Debtor Case; Sanctions for Failure to Comply. In a case in

11

which the debtor is an individual:

12

(A) If, in addition to its principal amount, a

13

claim includes interest, fees, expenses, or other charges

14

incurred before the petition was filed, an itemized statement

15

of the interest, fees, expenses, or charges shall be filed with

16

the proof of claim.

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17                    (B) If a security interest is claimed in the  
18                    debtor's property, a statement of the amount necessary to cure  
19                    any default as of the date of the petition shall be filed with the  
20                    proof of claim.

21                    (C) If a security interest is claimed in property  
22                    that is the debtor's principal residence, the attachment prescribed  
23                    by the appropriate Official Form shall be filed with the proof of  
24                    claim. If an escrow account has been established in connection  
25                    with the claim, an escrow account statement prepared as of the  
26                    date the petition was filed and in a form consistent with  
27                    applicable nonbankruptcy law shall be filed with the attachment  
28                    to the proof of claim.

29                    (D) If the holder of a claim fails to provide  
30                    any information required by this subdivision (c), the court  
31                    may, after notice and hearing, take either or both of the  
32                    following actions:

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33 (i) preclude the holder from presenting  
34 the omitted information, in any form, as evidence in any  
35 contested matter or adversary proceeding in the case, unless  
36 the court determines that the failure was substantially justified  
37 or is harmless; or

38 (ii) award other appropriate relief,  
39 including reasonable expenses and attorney's fees caused by  
40 the failure.

41 \* \* \* \* \*

**COMMITTEE NOTE**

**Subdivision (c).** Subdivision (c) is amended to prescribe with greater specificity the supporting information required to accompany certain proofs of claim and, in cases in which the debtor is an individual, the consequences of failing to provide the required information.

Existing subdivision (c) is redesignated as (c)(1).

Subdivision (c)(2) is added to require additional information to accompany proofs of claim filed in cases in which the debtor is an individual. When the holder of a claim seeks to recover – in addition to the principal amount of a debt – interest, fees, expenses, or other charges, the proof of claim must be accompanied by a statement

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itemizing these additional amounts with sufficient specificity to make clear the basis for the claimed amount.

If a claim is secured by a security interest in the property of the debtor and the debtor defaulted on the claim prior to the filing of the petition, the proof of claim must be accompanied by a statement of the amount required to cure the prepetition default.

If the claim is secured by a security interest in the debtor's principal residence, the proof of claim must be accompanied by the attachment prescribed by the appropriate Official Form. In that attachment, the holder of the claim must provide the information required by subparagraphs (A) and (B) of this paragraph (2). In addition, if an escrow account has been established in connection with the claim, an escrow account statement showing the account balance, and any amount owed, as of the date the petition was filed must be submitted in accordance with subparagraph (C). The statement must be prepared in a form consistent with the requirements of nonbankruptcy law. *See, e.g.*, 12 U.S.C. § 2601 *et seq.* (Real Estate Settlement Procedure Act). Thus the holder of the claim may provide the escrow account statement using the same form it uses outside of bankruptcy for this purpose.

Subparagraph (D) of subdivision (c)(2) sets forth sanctions that the court may impose on a creditor in an individual debtor case that fails to provide information required by subdivision (c). Failure to provide the required information does not itself constitute a ground for disallowance of a claim. *See* § 502(b) of the Code. But when an objection to the allowance of a claim is made or other litigation arises concerning the status or treatment of a claim, if the holder of that claim has not complied with the requirements of this subdivision, the court may preclude it from presenting as evidence any of the omitted information, unless the failure to comply with this subdivision was substantially justified or harmless. The court retains discretion to

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allow an amendment to a proof of claim under appropriate circumstances or to impose a sanction different from or in addition to the preclusion of the introduction of evidence.

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**Changes Made After Publication**

Subdivision (c)(1). The requirement that the last account statement sent to the debtor be filed with the proof of claim was deleted.

Subdivision (c)(2). In subparagraph (C), a provision was added requiring the use of the appropriate Official Form for the attachment filed by a holder of a claim secured by a security interest in a debtor's principal residence.

In subdivision (c)(2)(D), the clause "the holder shall be precluded" was deleted, and the provision was revised to state that "the court may, after notice and hearing, take either or both" of the specified actions.

Committee Note. In the discussion of subdivision (c)(2), the term "security interest" was added to the sentence that discusses the required filing of a statement of the amount necessary to cure a prepetition default.

The discussion of subdivision (c)(2)(D) was expanded to clarify that failure to provide required documentation, by itself, is not a ground for disallowance of a claim and that the court has several options in responding to a creditor's failure to provide information required by subdivision (c).

Other changes. Stylistic changes were made to the rule and the Committee Note.

**Rule 3002.1. Notice Relating to Claims Secured by Security Interest in the Debtor's Principal Residence**

1           (a)     IN GENERAL. This rule applies in a chapter  
2           13 case to claims that are (1) secured by a security interest in  
3           the debtor's principal residence, and (2) provided for under  
4           § 1322(b)(5) of the Code in the debtor's plan.

5           (b)     NOTICE OF PAYMENT CHANGES. The  
6           holder of the claim shall file and serve on the debtor, debtor's  
7           counsel, and the trustee a notice of any change in the payment  
8           amount, including any change that results from an interest  
9           rate or escrow account adjustment, no later than 21 days  
10          before a payment in the new amount is due.

11          (c)     NOTICE OF FEES, EXPENSES, AND  
12          CHARGES. The holder of the claim shall file and serve on  
13          the debtor, debtor's counsel, and the trustee a notice itemizing  
14          all fees, expenses, or charges (1) that were incurred in  
15          connection with the claim after the bankruptcy case was filed.

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16 and (2) that the holder asserts are recoverable against the  
17 debtor or against the debtor's principal residence. The notice  
18 shall be served within 180 days after the date on which the  
19 fees, expenses, or charges are incurred.

20 (d) FORM AND CONTENT. A notice filed and  
21 served under subdivision (b) or (c) of this rule shall be  
22 prepared as prescribed by the appropriate Official Form, and  
23 filed as a supplement to the holder's proof of claim. The  
24 notice is not subject to Rule 3001(f).

25 (e) DETERMINATION OF FEES, EXPENSES,  
26 OR CHARGES. On motion of the debtor or trustee filed  
27 within one year after service of a notice under subdivision (c)  
28 of this rule, the court shall, after notice and hearing,  
29 determine whether payment of any claimed fee, expense, or  
30 charge is required by the underlying agreement and  
31 applicable nonbankruptcy law to cure a default or maintain  
32 payments in accordance with § 1322(b)(5) of the Code.

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33 (f) NOTICE OF FINAL CURE PAYMENT.

34 Within 30 days after the debtor completes all payments under  
35 the plan, the trustee shall file and serve on the holder of the  
36 claim, the debtor, and debtor's counsel a notice stating that  
37 the debtor has paid in full the amount required to cure any  
38 default on the claim. The notice shall also inform the holder  
39 of its obligation to file and serve a response under subdivision  
40 (g). If the debtor contends that final cure payment has been  
41 made and all plan payments have been completed, and the  
42 trustee does not timely file and serve the notice required by  
43 this subdivision, the debtor may file and serve the notice.

44 (g) RESPONSE TO NOTICE OF FINAL CURE  
45 PAYMENT. Within 21 days after service of the notice under  
46 subdivision (f) of this rule, the holder shall file and serve on  
47 the debtor, debtor's counsel, and the trustee a statement  
48 indicating (1) whether it agrees that the debtor has paid in full  
49 the amount required to cure the default on the claim, and (2)

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50 whether the debtor is otherwise current on all payments  
51 consistent with § 1322(b)(5) of the Code. The statement shall  
52 itemize the required cure or postpetition amounts, if any, that  
53 the holder contends remain unpaid as of the date of the  
54 statement. The statement shall be filed as a supplement to the  
55 holder's proof of claim and is not subject to Rule 3001(f).

56 (h) DETERMINATION OF FINAL CURE AND  
57 PAYMENT. On motion of the debtor or trustee filed within  
58 21 days after service of the statement under subdivision (g) of  
59 this rule, the court shall, after notice and hearing, determine  
60 whether the debtor has cured the default and paid all required  
61 postpetition amounts.

62 (i) FAILURE TO NOTIFY. If the holder of a claim  
63 fails to provide any information as required by subdivision  
64 (b), (c), or (g) of this rule, the court may, after notice and  
65 hearing, take either or both of the following actions:

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- 66                   (1) preclude the holder from presenting the  
67                   omitted information, in any form, as evidence in any  
68                   contested matter or adversary proceeding in the case, unless  
69                   the court determines that the failure was substantially justified  
70                   or is harmless; or
- 71                   (2) award other appropriate relief, including  
72                   reasonable expenses and attorney's fees caused by the failure.

**COMMITTEE NOTE**

This rule is new. It is added to aid in the implementation of § 1322(b)(5), which permits a chapter 13 debtor to cure a default and maintain payments on a home mortgage over the course of the debtor's plan. It applies regardless of whether the trustee or the debtor is the disbursing agent for postpetition mortgage payments.

In order to be able to fulfill the obligations of § 1322(b)(5), a debtor and the trustee have to be informed of the exact amount needed to cure any prepetition arrearage, *see* Rule 3001(c)(2), and the amount of the postpetition payment obligations. If the latter amount changes over time, due to the adjustment of the interest rate, escrow account adjustments, or the assessment of fees, expenses, or other charges, notice of any change in payment amount needs to be conveyed to the debtor and trustee. Timely notice of these changes will permit the debtor or trustee to challenge the validity of any such charges, if appropriate, and to adjust postpetition mortgage payments to cover any undisputed claimed adjustment. Compliance with the notice provision of the rule should also eliminate any concern on the

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part of the holder of the claim that informing a debtor of a change in postpetition payment obligations might violate the automatic stay.

**Subdivision (a).** Subdivision (a) specifies that this rule applies only in a chapter 13 case to claims secured by a security interest in the debtor's principal residence.

**Subdivision (b).** Subdivision (b) requires the holder of a claim to notify the debtor, debtor's counsel, and the trustee of any postpetition change in the mortgage payment amount at least 21 days before the new payment amount is due.

**Subdivision (c).** Subdivision (c) requires an itemized notice to be given, within 180 days of incurrence, of any postpetition fees, expenses, or charges that the holder of the claim asserts are recoverable from the debtor or against the debtor's principal residence. This might include, for example, inspection fees, late charges, or attorney's fees.

**Subdivision (d).** Subdivision (d) provides the method of giving the notice under subdivisions (b) and (c). In both instances, the holder of the claim must give notice of the change as prescribed by the appropriate Official Form. In addition to serving the debtor, debtor's counsel, and the trustee, the holder of the claim must also file the notice on the claims register in the case as a supplement to its proof of claim. Rule 3001(f) does not apply to any notice given under subdivision (b) or (c), and therefore the notice will not constitute prima facie evidence of the validity and amount of the payment change or of the fee, expense, or charge.

**Subdivision (e).** Subdivision (e) permits the debtor or trustee, within a year after service of a notice under subdivision (c), to seek a determination by the court as to whether the fees, expenses, or charges set forth in the notice are required by the underlying

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agreement or applicable nonbankruptcy law to cure a default or maintain payments.

**Subdivision (f).** Subdivision (f) requires the trustee to issue a notice to the holder of the claim, the debtor, and the debtor's attorney within 30 days after completion of payments under the plan. The notice must (1) indicate that all amounts required to cure a default on a claim secured by the debtor's principal residence have been paid, and (2) direct the holder to comply with subdivision (g). If the trustee fails to file this notice within the required time, this subdivision also permits the debtor to file and serve the notice on the trustee and the holder of the claim.

**Subdivision (g).** Subdivision (g) governs the response of the holder of the claim to the trustee's or debtor's notice under subdivision (f). Within 21 days after service of notice of the final cure payment, the holder of the claim must file and serve a statement indicating whether the prepetition default has been fully cured and also whether the debtor is current on all payments in accordance with § 1322(b)(5) of the Code. If the holder of the claim contends that all cure payments have not been made or that the debtor is not current on other payments required by § 1322(b)(5), the response must itemize all amounts, other than regular future installment payments, that the holder contends are due.

**Subdivision (h).** Subdivision (h) provides a procedure for the judicial resolution of any disputes that may arise about payment of a claim secured by the debtor's principal residence. Within 21 days after the service of the statement under (g), the trustee or debtor may move for a determination by the court of whether any default has been cured and whether any other non-current obligations remain outstanding.

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**Subdivision (i).** Subdivision (i) specifies sanctions that may be imposed if the holder of a claim fails to provide any of the information as required by subdivisions (b), (c), or (g).

If, after the chapter 13 debtor has completed payments under the plan and the case has been closed, the holder of a claim secured by the debtor's principal residence seeks to recover amounts that should have been but were not disclosed under this rule, the debtor may move to have the case reopened in order to seek sanctions against the holder of the claim under subdivision (i).

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### Changes Made After Publication

Subdivision (a). As part of organizational changes intended to make the rule shorter and clearer, a new subdivision (a) was inserted that specifies the applicability of the rule. Other subdivision designations were changed accordingly.

Subdivision (b). The timing of the notice of payment change, addressed in subdivision (a) of the published rule, was changed from 30 to 21 days before payment must be made in the new amount.

Subdivision (d). The provisions of the published rule prescribing the procedure for providing notice of payment changes and of fees, expenses, and charges were moved to subdivision (d).

Subdivision (e). As part of the organizational revision of the rule, the provision governing the resolution of disputes over claimed fees, expenses, or charges was moved to this subdivision.

Subdivision (f). The triggering event for the filing of the notice of final cure payment was changed to the debtor's completion of all payments required under the plan. A sentence was added

## FEDERAL RULES OF BANKRUPTCY PROCEDURE 31

requiring the notice to inform the holder of the mortgage claim of its obligation to file and serve a response under subdivision (g).

Subdivision (h). The caption of this subdivision (which was subdivision (f) as published), was changed to describe its content more precisely.

Subdivision (i). The clause “the holder shall be precluded” was deleted, and the provision was revised to state that “the court may, after notice and hearing, take either or both” of the specified actions.

Committee Note. A sentence was added to the first paragraph to clarify that the rule applies regardless of whether ongoing mortgage payments are made directly by the debtor or disbursed through the chapter 13 trustee. Other changes were made to the Committee Note to reflect the changes made to the rule.

Other changes. Stylistic changes were made throughout the rule and Committee Note.

#### **Rule 4004. Grant or Denial of Discharge**

1

\* \* \* \* \*

2

(b) EXTENSION OF TIME.

3

(1) On motion of any party in interest, after

4

notice and hearing on notice, the court may for cause extend

5

the time to ~~file a complaint~~ objecting to discharge. Except as

32 FEDERAL RULES OF BANKRUPTCY PROCEDURE

6 provided in subdivision (b)(2). The motion shall be filed  
7 before the time has expired.

8 (2) A motion to extend the time to object to  
9 discharge may be filed after the time for objection has expired  
10 and before discharge is granted if (A) the objection is based  
11 on facts that, if learned after the discharge, would provide a  
12 basis for revocation under § 727(d) of the Code, and (B) the  
13 movant did not have knowledge of those facts in time to  
14 permit an objection. The motion shall be filed promptly after  
15 the movant discovers the facts on which the objection is  
16 based.

17 \* \* \* \* \*

#### COMMITTEE NOTE

**Subdivision (b).** Subdivision (b) is amended to allow a party, under certain specified circumstances, to seek an extension of time to object to discharge after the time for filing has expired. This amendment addresses the situation in which there is a gap between the expiration of the time for objecting to discharge and the entry of the discharge order. If, during that period, a party discovers facts that would provide grounds for revocation of discharge, it may not be able to seek revocation under § 727(d) of the Code because the facts

## FEDERAL RULES OF BANKRUPTCY PROCEDURE 33

would have been known prior to the granting of the discharge. Furthermore, during that period the debtor may commit an act that provides a basis for both denial and revocation of the discharge. In those situations, subdivision (b)(2) allows a party to file a motion for an extension of time to object to discharge based on those facts so long as they were not known to the party before expiration of the deadline for objecting. The motion must be filed promptly after discovery of those facts.

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### Changes Made After Publication

Following publication minor stylistic changes were made to the language of the rule, and a sentence was added to the Committee Note to clarify that the rule applies whenever the debtor commits an act during the gap period that provides a basis for both denial and revocation of the discharge.

#### **Rule 6003. Interim and Final Relief Immediately Following the Commencement of the Case – Applications for Employment; Motions for Use, Sale, or Lease of Property; and Motions for Assumption or Assignment of Executory Contracts**

1           Except to the extent that relief is necessary to avoid  
 2           immediate and irreparable harm, the court shall not, within 21  
 3           days after the filing of the petition, ~~grant relief~~ issue an order  
 4           granting ~~regarding~~ the following:

5           (a) an application under Rule 2014;

# AMERICAN BANKRUPTCY INSTITUTE

B 10 (Official Form 10) (12/11)

<b>UNITED STATES BANKRUPTCY COURT</b> _____ <b>DISTRICT OF</b> _____		<b>PROOF OF CLAIM</b>
Name of Debtor: _____		Case Number: _____
NOTE: Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing. You may file a request for payment of an administrative expense according to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): _____		<b>COURT USE ONLY</b>
Name and address where notices should be sent:  Telephone number: _____ email: _____		<input type="checkbox"/> Check this box if this claim amends a previously filed claim.  <b>Court Claim Number:</b> _____ (If known)  Filed on: _____
Name and address where payment should be sent (if different from above):  Telephone number: _____ email: _____		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars.
<b>1. Amount of Claim as of Date Case Filed:</b> \$ _____  If all or part of the claim is secured, complete item 4.  If all or part of the claim is entitled to priority, complete item 5.  <input type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.		
<b>2. Basis for Claim:</b> _____ (See instruction #2)		
<b>3. Last four digits of any number by which creditor identifies debtor:</b> _____	<b>3a. Debtor may have scheduled account as:</b> _____ (See instruction #3a)	<b>3b. Uniform Claim Identifier (optional):</b> _____ (See instruction #3b)
<b>4. Secured Claim</b> (See instruction #4) Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information.  <b>Nature of property or right of setoff:</b> <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other <b>Describe:</b>  <b>Value of Property:</b> \$ _____  <b>Annual Interest Rate</b> _____ % <input type="checkbox"/> Fixed   or <input type="checkbox"/> Variable (when case was filed)		<b>Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any:</b> \$ _____  <b>Basis for perfection:</b> _____  <b>Amount of Secured Claim:</b> \$ _____  <b>Amount Unsecured:</b> \$ _____
<b>5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount.</b>		
<input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).	<input type="checkbox"/> Wages, salaries, or commissions (up to \$11,725*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier – 11 U.S.C. §507 (a)(4).	<input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507 (a)(5).  <b>Amount entitled to priority:</b> \$ _____
<input type="checkbox"/> Up to \$2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7).	<input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8).	<input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507 (a)(____).
<i>*Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</i>		
<b>6. Credits.</b> The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #6)		

**7. Documents:** Attached are **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. If the claim is secured, box 4 has been completed, and **redacted** copies of documents providing evidence of perfection of a security interest are attached. (See instruction #7, and the definition of "redacted".)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain:

**8. Signature:** (See instruction #8)

Check the appropriate box.

- I am the creditor.       I am the creditor's authorized agent.       I am the trustee, or the debtor, or their authorized agent.       I am a guarantor, surety, indorser, or other codebtor. (See Bankruptcy Rule 3005.)
- (Attach copy of power of attorney, if any.)      (See Bankruptcy Rule 3004.)

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Company: \_\_\_\_\_

Address and telephone number (if different from notice address above): \_\_\_\_\_

\_\_\_\_\_  
(Signature) (Date)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone number: \_\_\_\_\_ email: \_\_\_\_\_

*Penalty for presenting fraudulent claim:* Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

**INSTRUCTIONS FOR PROOF OF CLAIM FORM**

*The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, exceptions to these general rules may apply.*

**Items to be completed in Proof of Claim form**

**Court, Name of Debtor, and Case Number:**

Fill in the federal judicial district in which the bankruptcy case was filed (for example, Central District of California), the debtor's full name, and the case number. If the creditor received a notice of the case from the bankruptcy court, all of this information is at the top of the notice.

**Creditor's Name and Address:**

Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

**1. Amount of Claim as of Date Case Filed:**

State the total amount owed to the creditor on the date of the bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.

**2. Basis for Claim:**

State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card. If the claim is based on delivering health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information. You may be required to provide additional disclosure if an interested party objects to the claim.

**3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:**

State only the last four digits of the debtor's account or other number used by the creditor to identify the debtor.

**3a. Debtor May Have Scheduled Account As:**

Report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the debtor.

**3b. Uniform Claim Identifier:**

If you use a uniform claim identifier, you may report it here. A uniform claim identifier is an optional 24-character identifier that certain large creditors use to facilitate electronic payment in chapter 13 cases.

**4. Secured Claim:**

Check whether the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See Definitions.) If the claim is secured, check the box for the nature and value of property that secures the claim, attach copies of lien documentation, and state, as of the date of the bankruptcy filing, the annual interest rate (and whether it is fixed or variable), and the amount past due on the claim.

**5. Amount of Claim Entitled to Priority Under 11 U.S.C. §507(a).**

If any portion of the claim falls into any category shown, check the appropriate box(es) and state the amount entitled to priority. (See Definitions.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

**6. Credits:**

An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

**7. Documents:**

Attach redacted copies of any documents that show the debt exists and a lien secures the debt. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary in addition to the documents themselves. FRBP 3001(c) and (d). If the claim is based on delivering health care goods or services, limit disclosing confidential health care information. Do not send original documents, as attachments may be destroyed after scanning.

**8. Date and Signature:**

The individual completing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what constitutes a signature. If you sign this form, you declare under penalty of perjury that the information provided is true and correct to the best of your knowledge, information, and reasonable belief. Your signature is also a certification that the claim meets the requirements of FRBP 9011(b). Whether the claim is filed electronically or in person, if your name is on the signature line, you are responsible for the declaration. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. If the claim is filed by an authorized agent, attach a complete copy of any power of attorney, and provide both the name of the individual filing the claim and the name of the agent. If the authorized agent is a servicer, identify the corporate servicer as the company. Criminal penalties apply for making a false statement on a proof of claim.

## DEFINITIONS

**Debtor**

A debtor is the person, corporation, or other entity that has filed a bankruptcy case.

**Creditor**

A creditor is a person, corporation, or other entity to whom debtor owes a debt that was incurred before the date of the bankruptcy filing. See 11 U.S.C. §101 (10).

**Claim**

A claim is the creditor's right to receive payment for a debt owed by the debtor on the date of the bankruptcy filing. See 11 U.S.C. §101 (5). A claim may be secured or unsecured.

**Proof of Claim**

A proof of claim is a form used by the creditor to indicate the amount of the debt owed by the debtor on the date of the bankruptcy filing. The creditor must file the form with the clerk of the same bankruptcy court in which the bankruptcy case was filed.

**Secured Claim Under 11 U.S.C. §506(a)**

A secured claim is one backed by a lien on property of the debtor. The claim is secured so long as the creditor has the right to be paid from the property prior to other creditors. The amount of the secured claim cannot exceed the value of the property. Any amount owed to the creditor in excess of the value of the property is an unsecured claim. Examples of liens on property include a mortgage on real estate or a security interest in a car. A lien may be voluntarily granted by a debtor or may be obtained through a court proceeding. In some states, a court judgment is a lien.

A claim also may be secured if the creditor owes the debtor money (has a right to setoff).

**Unsecured Claim**

An unsecured claim is one that does not meet the requirements of a secured claim. A claim may be partly unsecured if the amount of the claim exceeds the value of the property on which the creditor has a lien.

**Claim Entitled to Priority Under 11 U.S.C. §507(a)**

Priority claims are certain categories of unsecured claims that are paid from the available money or property in a bankruptcy case before other unsecured claims.

**Redacted**

A document has been redacted when the person filing it has masked, edited out, or otherwise deleted, certain information. A creditor must show only the last four digits of any social-security, individual's tax-identification, or financial-account number, only the initials of a minor's name, and only the year of any person's date of birth. If the claim is based on the delivery of health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information.

**Evidence of Perfection**

Evidence of perfection may include a mortgage, lien, certificate of title, financing statement, or other document showing that the lien has been filed or recorded.

## INFORMATION

**Acknowledgment of Filing of Claim**

To receive acknowledgment of your filing, you may either enclose a stamped self-addressed envelope and a copy of this proof of claim or you may access the court's PACER system ([www.pacer.psc.uscourts.gov](http://www.pacer.psc.uscourts.gov)) for a small fee to view your filed proof of claim.

**Offers to Purchase a Claim**

Certain entities are in the business of purchasing claims for an amount less than the face value of the claims. One or more of these entities may contact the creditor and offer to purchase the claim. Some of the written communications from these entities may easily be confused with official court documentation or communications from the debtor. These entities do not represent the bankruptcy court or the debtor. The creditor has no obligation to sell its claim. However, if the creditor decides to sell its claim, any transfer of such claim is subject to FRBP 3001(e), any applicable provisions of the Bankruptcy Code (11 U.S.C. § 101 *et seq.*), and any applicable orders of the bankruptcy court.

## Mortgage Proof of Claim Attachment

If you file a claim secured by a security interest in the debtor's principal residence, you must use this form as an attachment to your proof of claim. See Bankruptcy Rule 3001(c)(2).

Name of debtor: \_\_\_\_\_ Case number: \_\_\_\_\_  
 Name of creditor: \_\_\_\_\_ Last four digits of any number you use to identify the debtor's account: \_\_\_\_\_

### Part 1: Statement of Principal and Interest Due as of the Petition Date

Itemize the principal and interest due on the claim as of the petition date (included in the Amount of Claim listed in Item 1 on your Proof of Claim form).

1. Principal due		(1) \$ _____																				
2. Interest due	<table border="1"> <thead> <tr> <th>Interest rate</th> <th>From mm/dd/yyyy</th> <th>To mm/dd/yyyy</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>_____ %</td> <td>___/___/___</td> <td>___/___/___</td> <td>\$ _____</td> </tr> <tr> <td>_____ %</td> <td>___/___/___</td> <td>___/___/___</td> <td>\$ _____</td> </tr> <tr> <td>_____ %</td> <td>___/___/___</td> <td>___/___/___</td> <td>+ \$ _____</td> </tr> <tr> <td colspan="3"><b>Total interest due as of the petition date</b></td> <td>\$ _____</td> </tr> </tbody> </table>	Interest rate	From mm/dd/yyyy	To mm/dd/yyyy	Amount	_____ %	___/___/___	___/___/___	\$ _____	_____ %	___/___/___	___/___/___	\$ _____	_____ %	___/___/___	___/___/___	+ \$ _____	<b>Total interest due as of the petition date</b>			\$ _____	Copy total here ► (2) + \$ _____
Interest rate	From mm/dd/yyyy	To mm/dd/yyyy	Amount																			
_____ %	___/___/___	___/___/___	\$ _____																			
_____ %	___/___/___	___/___/___	\$ _____																			
_____ %	___/___/___	___/___/___	+ \$ _____																			
<b>Total interest due as of the petition date</b>			\$ _____																			
3. Total principal and interest due		(3) \$ _____																				

### Part 2: Statement of Prepetition Fees, Expenses, and Charges

Itemize the fees, expenses, and charges due on the claim as of the petition date (included in the Amount of Claim listed in Item 1 on the Proof of Claim form).

Description	Dates incurred	Amount
1. Late charges	_____	(1) \$ _____
2. Non-sufficient funds (NSF) fees	_____	(2) \$ _____
3. Attorney's fees	_____	(3) \$ _____
4. Filing fees and court costs	_____	(4) \$ _____
5. Advertisement costs	_____	(5) \$ _____
6. Sheriff/auctioneer fees	_____	(6) \$ _____
7. Title costs	_____	(7) \$ _____
8. Recording fees	_____	(8) \$ _____
9. Appraisal/broker's price opinion fees	_____	(9) \$ _____
10. Property inspection fees	_____	(10) \$ _____
11. Tax advances (non-escrow)	_____	(11) \$ _____
12. Insurance advances (non-escrow)	_____	(12) \$ _____
13. Escrow shortage or deficiency (Do not include amounts that are part of any installment payment listed in Part 3.)	_____	(13) \$ _____
14. Property preservation expenses. Specify: _____	_____	(14) \$ _____
15. Other. Specify: _____	_____	(15) \$ _____
16. Other. Specify: _____	_____	(16) \$ _____
17. Other. Specify: _____	_____	(17) + \$ _____
18. Total prepetition fees, expenses, and charges. Add all of the amounts listed above.		(18) \$ _____

**Part 3. Statement of Amount Necessary to Cure Default as of the Petition Date**

Does the installment payment amount include an escrow deposit?

- No
- Yes. Attach to the Proof of Claim form an escrow account statement prepared as of the petition date in a form consistent with applicable nonbankruptcy law.

1. <b>Installment payments due</b>	Date last payment received by creditor	_ / _ / _	
	Number of installment payments due	(1) _____	
2. <b>Amount of installment payments due</b>	_____ installments @	\$ _____	
	_____ installments @	\$ _____	
	_____ installments @	+ \$ _____	
	<b>Total installment payments due as of the petition date</b>	\$ _____	Copy total here ▶ (2) \$ _____
3. <b>Calculation of cure amount</b>	<b>Add total prepetition fees, expenses, and charges</b>		Copy total from Part 2 here ▶ + \$ _____
	<b>Subtract total of unapplied funds</b> (funds received but not credited to account)		- \$ _____
	<b>Subtract amounts for which debtor is entitled to a refund</b>		- \$ _____
	<b>Total amount necessary to cure default as of the petition date</b>		(3) \$ _____

Copy total onto Item 4 of Proof of Claim form

# UNITED STATES BANKRUPTCY COURT

\_\_\_\_\_ District of \_\_\_\_\_

In re \_\_\_\_\_,  
Debtor

Case No. \_\_\_\_\_

Chapter 13

## Notice of Mortgage Payment Change

If you file a claim secured by a security interest in the debtor's principal residence provided for under the debtor's plan pursuant to § 1322(b)(5), you must use this form to give notice of any changes in the installment payment amount. File this form as a supplement to your proof of claim at least 21 days before the new payment amount is due. See Bankruptcy Rule 3002.1.

Name of creditor: \_\_\_\_\_

Court claim no. (if known): \_\_\_\_\_

Last four digits of any number you use to identify the debtor's account: \_\_\_\_\_

Date of payment change:  
Must be at least 21 days after date of this notice \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

New total payment: \$ \_\_\_\_\_  
Principal, interest, and escrow, if any

### Part 1: Escrow Account Payment Adjustment

Will there be a change in the debtor's escrow account payment?

- No
- Yes. Attach a copy of the escrow account statement prepared in a form consistent with applicable nonbankruptcy law. Describe the basis for the change. If a statement is not attached, explain why:  
\_\_\_\_\_

Current escrow payment: \$ \_\_\_\_\_ New escrow payment: \$ \_\_\_\_\_

### Part 2: Mortgage Payment Adjustment

Will the debtor's principal and interest payment change based on an adjustment to the interest rate in the debtor's variable-rate note?

- No
- Yes. Attach a copy of the rate change notice prepared in a form consistent with applicable nonbankruptcy law. If a notice is not attached, explain why: \_\_\_\_\_

Current interest rate: \_\_\_\_\_% New interest rate: \_\_\_\_\_%

Current principal and interest payment: \$ \_\_\_\_\_ New principal and interest payment: \$ \_\_\_\_\_

### Part 3: Other Payment Change

Will there be a change in the debtor's mortgage payment for a reason not listed above?

- No
- Yes. Attach a copy of any documents describing the basis for the change, such as a repayment plan or loan modification agreement. (Court approval may be required before the payment change can take effect.)

Reason for change: \_\_\_\_\_

Current mortgage payment: \$ \_\_\_\_\_ New mortgage payment: \$ \_\_\_\_\_

**Part 4: Sign Here**

The person completing this Notice must sign it. Sign and print your name and your title, if any, and state your address and telephone number if different from the notice address listed on the proof of claim to which this Supplement applies.

Check the appropriate box.

- I am the creditor.       I am the creditor's authorized agent.  
 (Attach copy of power of attorney, if any.)

I declare under penalty of perjury that the information provided in this Notice is true and correct to the best of my knowledge, information, and reasonable belief.

**X** \_\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_  
 Signature

**Print:**      \_\_\_\_\_ Title \_\_\_\_\_  
 First Name      Middle Name      Last Name

Company \_\_\_\_\_

Address \_\_\_\_\_  
 Number      Street  
 \_\_\_\_\_  
 City      State      ZIP Code

Contact phone (\_\_\_\_) \_\_\_\_-\_\_\_\_      Email \_\_\_\_\_

# UNITED STATES BANKRUPTCY COURT

\_\_\_\_\_ District of \_\_\_\_\_

In re \_\_\_\_\_,  
Debtor

Case No. \_\_\_\_\_

Chapter 13

## Notice of Postpetition Mortgage Fees, Expenses, and Charges

If you hold a claim secured by a security interest in the debtor's principal residence, you must use this form to give notice of any postpetition fees, expenses, and charges that you assert are recoverable against the debtor or against the debtor's principal residence. File this form as a supplement to your proof of claim. See Bankruptcy Rule 3002.1.

Name of creditor: \_\_\_\_\_

Court claim no. (if known): \_\_\_\_\_

Last four digits of any number you use to identify the debtor's account: \_\_\_\_\_

Does this notice supplement a prior notice of postpetition fees, expenses, and charges?

- No  
 Yes. Date of the last notice: \_\_\_\_/\_\_\_\_/\_\_\_\_

### Part 1: Itemize Postpetition Fees, Expenses, and Charges

Itemize the fees, expenses, and charges incurred on the debtor's mortgage account after the petition was filed. Do not include any escrow account disbursements or any amounts previously itemized in a notice filed in this case or ruled on by the bankruptcy court.

Description	Dates incurred	Amount
1. Late charges	_____	(1) \$ _____
2. Non-sufficient funds (NSF) fees	_____	(2) \$ _____
3. Attorney fees	_____	(3) \$ _____
4. Filing fees and court costs	_____	(4) \$ _____
5. Bankruptcy/Proof of claim fees	_____	(5) \$ _____
6. Appraisal/Broker's price opinion fees	_____	(6) \$ _____
7. Property inspection fees	_____	(7) \$ _____
8. Tax advances (non-escrow)	_____	(8) \$ _____
9. Insurance advances (non-escrow)	_____	(9) \$ _____
10. Property preservation expenses. Specify: _____	_____	(10) \$ _____
11. Other. Specify: _____	_____	(11) \$ _____
12. Other. Specify: _____	_____	(12) \$ _____
13. Other. Specify: _____	_____	(13) \$ _____
14. Other. Specify: _____	_____	(14) \$ _____

The debtor or trustee may challenge whether the fees, expenses, and charges you listed are required to be paid. See 11 U.S.C. § 1322(b)(5) and Bankruptcy Rule 3002.1.

**Part 2: Sign Here**

The person completing this Notice must sign it. Sign and print your name and your title, if any, and state your address and telephone number if different from the notice address listed on the proof of claim to which this Supplement applies.

Check the appropriate box.

- I am the creditor.
- I am the creditor's authorized agent. (Attach copy of power of attorney, if any.)

I declare under penalty of perjury that the information provided in this Notice is true and correct to the best of my knowledge, information, and reasonable belief.

**X** \_\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_  
 Signature

**Print:** \_\_\_\_\_ Title \_\_\_\_\_  
 First Name Middle Name Last Name

Company \_\_\_\_\_

Address \_\_\_\_\_  
 Number Street  
 City State ZIP Code

Contact phone (\_\_\_\_) \_\_\_\_-\_\_\_\_ Email \_\_\_\_\_