

# **RULES 3001 AND 3002.1**

## **CHANGING THE CONSUMER CLAIM GAME**

**THE UNIVERSITY OF TEXAS SCHOOL OF LAW**

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## **CHANGING THE CONSUMER CLAIM GAME AMENDED RULE 3001 AND RULE 3002.1**

### **Preliminary Statement:**

**On December 1, 2011, the Federal Rules of Bankruptcy Procedure were amended. The changes having the most impact on consumer claims are Rule 3001 regarding requirements for creditors in the claims they make in bankruptcy cases in general; and the addition of Rule 3002-1 regarding how parties are to handle secured claims against debtor's principal residence in Chapter 13. The Bankruptcy Rules changes were an attempt to curb recurring problems in general and in particular in Chapter 13 cases for the debtor.**

### **Attachment 1: Bankruptcy Rules 3001 and 3002.1**

#### **A. Origination of New Rules:**

**Amendments to the Bankruptcy Rules originate with the federal judiciary and the Judicial Conference of the United States. The Congress has given the federal judiciary the authority to make rules subject to the ultimate approval, denial or revision of Congress.<sup>1</sup> The process of rule making is supervised by the Committee on Rules of Practice and Procedure, commonly referred to as the "Standing Committee", with the Standing Committee assisted by five advisory committees on matters relating to appellate, bankruptcy, civil, criminal and evidence rules.<sup>2</sup> A detailed explanation of the rule making process can be found on the U.S. Court's website at [www.uscourts.gov](http://www.uscourts.gov).<sup>3</sup>**

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<sup>1</sup> See Rules Enabling Act, 28 USC, Section 2071-2077.

<sup>2</sup> See [HTTP:\\www.uscourts.gov\\rulesandpolicies\\federalrulemaking\\overview.aspx](http://www.uscourts.gov/rulesandpolicies/federalrulemaking/overview.aspx).

<sup>3</sup> Id.

## **B. Effective Date:**

The amendments became effective December 1, 2011, “and shall cover all bankruptcy proceedings thereafter commenced and as far as practical all proceedings then pending.” The purpose of the rules amendments was to provide debtors with a more accurate and complete disclosure relating to how secured creditors are handling debtor loans during bankruptcy. The new requirements apply to pending cases to the extent an action subject to a new rule occurs after December 1, 2011. For example, if there is a payment change or a fee on a debtor’s account, incurred after the effective date in a case filed before December 1, 2011, the creditor should comply with Rules 3002.1(b) and (c) and send required notices. Similarly the notice for final cure payment and related procedure for determining whether the debtor has cured the default should apply to pending cases if debtor completes the plan payments after the effective date.

## **I.**

### **AMENDED RULE 3001 CHANGES:**

## **A. Information Changes:**

The amount of information that must now be provided when filing proofs of claim has significantly increased. Official Bankruptcy Form 10 has been amended in a significant manner. It is no longer sufficient to simply attach a summary of the documents supporting a claim. The form now requires redacted documents supporting the claim. The instructions to the Proof of Claim now defines “redacted” to mean that evidence of the social security number, tax ID and account number have been deleted.

**Attachment 2: Official Form 10.**

## **B. Signature Line Changes:**

The signature line to the Proof of Claim has been expanded. The signature must now declare the basis for his or her right to sign the form. Significant identifying information must be provided. It reads as follows: “I declare under penalty of perjury that the information provided in the claim is true

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