

prima facie evidence of the validity and amount of a claim of ownership of a quantity of grain.

(As amended Pub. L. 98-353, title III, §354, July 10, 1984, 98 Stat. 361; Apr. 30, 1991, eff. Aug. 1, 1991; Mar. 26, 2009, eff. Dec. 1, 2009.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is adapted from former Bankruptcy Rules 301 and 302. The Federal Rules of Evidence, made applicable to cases under the Code by Rule 1101, do not prescribe the evidentiary effect to be accorded particular documents. Subdivision (f) of this rule supplements the Federal Rules of Evidence as they apply to cases under the Code.

Subdivision (c). This subdivision is similar to former Bankruptcy Rule 302(c) and continues the requirement for the filing of any written security agreement and provides that the filing of a duplicate of a writing underlying a claim authenticates the claim with the same effect as the filing of the original writing. Cf. Rules 1001(4) and 1003 of F.R. of Evid. Subdivision (d) together with the requirement in the first sentence of subdivision (c) for the filing of any written security agreement, is designed to facilitate the determination whether the claim is secured and properly perfected so as to be valid against the trustee.

Subdivision (d). “Satisfactory evidence” of perfection, which is to accompany the proof of claim, would include a duplicate of an instrument filed or recorded, a duplicate of a certificate of title when a security interest is perfected by notation on such a certificate, a statement that pledged property has been in possession of the secured party since a specified date, or a statement of the reasons why no action was necessary for perfection. The secured creditor may not be required to file a proof of claim under this rule if he is not seeking allowance of a claim for a deficiency. But see §506(d) of the Code.

Subdivision (e). The rule recognizes the differences between an unconditional transfer of a claim and a transfer for the purpose of security and prescribes a procedure for dealing with the rights of the transferor and transferee when the transfer is for security. The rule clarifies the procedure to be followed when a transfer precedes or follows the filing of the petition. The interests of sound administration are served by requiring the post-petition transferee to file with the proof of claim a statement of the transferor acknowledging the transfer and the consideration for the transfer. Such a disclosure will assist the court in dealing with evils that may arise out of post-bankruptcy traffic in claims against an estate. *Monroe v. Scofield*, 135 F.2d 725 (10th Cir. 1943); *In re Philadelphia & Western Ry.*, 64 F. Supp. 738 (E.D. Pa. 1946); cf. *In re Latham Lithographic Corp.*, 107 F.2d 749 (2d Cir. 1939). Both paragraphs (1) and (3) of this subdivision, which deal with a transfer before the filing of a proof of claim, recognize that the transferee may be unable to obtain the required statement from the transferor, but in that event a sound reason for such inability must accompany the proof of claim filed by the transferee.

Paragraphs (3) and (4) clarify the status of a claim transferred for the purpose of security. An assignee for security has been recognized as a rightful claimant in bankruptcy. *Feder v. John Engelhorn & Sons*, 202 F.2d 411 (2d Cir. 1953). An assignor’s right to file a claim notwithstanding the assignment was sustained in *In re R & L Engineering Co.*, 182 F. Supp. 317 (S.D. Cal. 1960). Facilitation of the filing of proofs by both claimants as holders of interests in a single claim is consonant with equitable treatment of the parties and sound administration. See *In re Latham Lithographic Corp.*, 107 F.2d 749 (2d Cir. 1939).

Paragraphs (2) and (4) of subdivision (e) deal with the transfer of a claim after proof has been filed. Evidence of the terms of the transfer required to be disclosed to the court will facilitate the court’s determination of the appropriate order to be entered because of the transfer.

Paragraph (5) describes the procedure to be followed when an objection is made by the transferor to the transferee’s filed evidence of transfer.

NOTES OF ADVISORY COMMITTEE ON RULES—1987

Subdivision (g) was added by §354 of the 1984 amendments.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Subdivision (a) is amended in anticipation of future revision and renumbering of the Official Forms.

Subdivision (e) is amended to limit the court’s role to the adjudication of disputes regarding transfers of claims. If a claim has been transferred prior to the filing of a proof of claim, there is no need to state the consideration for the transfer or to submit other evidence of the transfer. If a claim has been transferred other than for security after a proof of claim has been filed, the transferee is substituted for the transferor in the absence of a timely objection by the alleged transferor. In that event, the clerk should note the transfer without the need for court approval. If a timely objection is filed, the court’s role is to determine whether a transfer has been made that is enforceable under non-bankruptcy law. This rule is not intended either to encourage or discourage postpetition transfers of claims or to affect any remedies otherwise available under nonbankruptcy law to a transferor or transferee such as for misrepresentation in connection with the transfer of a claim. “After notice and a hearing” as used in subdivision (e) shall be construed in accordance with paragraph (5).

The words “with the clerk” in subdivision (e)(2) and (e)(4) are deleted as unnecessary. See Rules 5005(a) and 9001(3).

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

REFERENCES IN TEXT

The United States Warehouse Act, referred to in subd. (g), is Part C of act Aug. 11, 1916, ch. 313, 39 Stat. 486, as amended, which is classified generally to chapter 10 (§241 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 241 of Title 7 and Tables.

AMENDMENT BY PUBLIC LAW

1984—Subd. (g). Pub. L. 98-353 added subd. (g).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-353 effective with respect to cases filed 90 days after July 10, 1984, see section 552(a) of Pub. L. 98-353, set out as a note under section 101 of this title.

Rule 3002. Filing Proof of Claim or Interest

(a) **NECESSITY FOR FILING.** An unsecured creditor or an equity security holder must file a proof of claim or interest for the claim or interest to be allowed, except as provided in Rules 1019(3), 3003, 3004, and 3005.

(b) **PLACE OF FILING.** A proof of claim or interest shall be filed in accordance with Rule 5005.

(c) **TIME FOR FILING.** In a chapter 7 liquidation, chapter 12 family farmer’s debt adjustment, or

chapter 13 individual's debt adjustment case, a proof of claim is timely filed if it is filed not later than 90 days after the first date set for the meeting of creditors called under §341(a) of the Code, except as follows:

(1) A proof of claim filed by a governmental unit, other than for a claim resulting from a tax return filed under §1308, is timely filed if it is filed not later than 180 days after the date of the order for relief. A proof of claim filed by a governmental unit for a claim resulting from a tax return filed under §1308 is timely filed if it is filed no later than 180 days after the date of the order for relief or 60 days after the date of the filing of the tax return. The court may, for cause, enlarge the time for a governmental unit to file a proof of claim only upon motion of the governmental unit made before expiration of the period for filing a timely proof of claim.

(2) In the interest of justice and if it will not unduly delay the administration of the case, the court may extend the time for filing a proof of claim by an infant or incompetent person or the representative of either.

(3) An unsecured claim which arises in favor of an entity or becomes allowable as a result of a judgment may be filed within 30 days after the judgment becomes final if the judgment is for the recovery of money or property from that entity or denies or avoids the entity's interest in property. If the judgment imposes a liability which is not satisfied, or a duty which is not performed within such period or such further time as the court may permit, the claim shall not be allowed.

(4) A claim arising from the rejection of an executory contract or unexpired lease of the debtor may be filed within such time as the court may direct.

(5) If notice of insufficient assets to pay a dividend was given to creditors under Rule 2002(e), and subsequently the trustee notifies the court that payment of a dividend appears possible, the clerk shall give at least 90 days' notice by mail to creditors of that fact and of the date by which proofs of claim must be filed.

(6) If notice of the time to file a proof of claim has been mailed to a creditor at a foreign address, on motion filed by the creditor before or after the expiration of the time, the court may extend the time by not more than 60 days if the court finds that the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 23, 1996, eff. Dec. 1, 1996; Apr. 23, 2008, eff. Dec. 1, 2008.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Subdivision (a) of this rule is substantially a restatement of the general requirement that claims be proved and filed. The exceptions refer to Rule 3003 providing for the filing of claims in chapter 9 and 11 cases, and to Rules 3004 and 3005 authorizing claims to be filed by the debtor or trustee and the filing of a claim by a contingent creditor of the debtor.

A secured claim need not be filed or allowed under §502 or §506(d) unless a party in interest has requested a determination and allowance or disallowance under §502.

Subdivision (c) is adapted from former Bankruptcy Rule 302(e) but changes the time limits on the filing of claims in chapter 7 and 13 cases from six months to 90 days after the first date set for the meeting of creditors. The special rule for early filing by a secured creditor in a chapter 13 case, in former Rule 13-302(e)(1) is not continued.

Although the claim of a secured creditor may have arisen before the petition, a judgment avoiding the security interest may not have been entered until after the time for filing claims has expired. Under Rule 3002(c)(3) the creditor who did not file a secured claim may nevertheless file an unsecured claim within the time prescribed. A judgment does not become final for the purpose of starting the 30 day period provided for by paragraph (3) until the time for appeal has expired or, if an appeal is taken, until the appeal has been disposed of. *In re Tapp*, 61 F. Supp. 594 (W.D. Ky. 1945).

Paragraph (1) is derived from former Bankruptcy Rule 302(e). The governmental unit may move for an extension of the 90 day period. Pursuant to §501(c) of the Code, if the government does not file its claim within the proper time period, the debtor or trustee may file on its behalf. An extension is not needed by the debtor or trustee because the right to file does not arise until the government's time has expired.

Paragraph (4) is derived from former chapter rules. (See, e.g., Rule 11-33(a)(2)(B). In light of the reduced time it is necessary that a party with a claim arising from the rejection of an executory contract have sufficient time to file that claim. This clause allows the court to fix an appropriate time.

Paragraph (5) of subdivision (c) is correlated with the provision in Rule 2002(e) authorizing notification to creditors of estates from which no dividends are anticipated. The clause permits creditors who have refrained from filing claims after receiving notification to be given an opportunity to file when subsequent developments indicate the possibility of a dividend. The notice required by this clause must be given in the manner provided in Rule 2002. The information relating to the discovery of assets will usually be obtained by the clerk from the trustee's interim reports or special notification by the trustee.

Provision is made in Rule 2002(a) and (h) for notifying all creditors of the fixing of a time for filing claims against a surplus under paragraph (6). This paragraph does not deal with the distribution of the surplus. Reference must also be made to §726(a)(2)(C) and (3) which permits distribution on late filed claims.

Paragraph (6) is only operative in a chapter 7 case. In chapter 13 cases, the plan itself provides the distribution to creditors which is not necessarily dependent on the size of the estate.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Subdivision (a) is amended by adding a reference to Rule 1019(4). Rule 1019(4) provides that claims actually filed by a creditor in a chapter 11 or 13 case shall be treated as filed in a superseding chapter 7 case. Claims deemed filed in a chapter 11 case pursuant to §1111(a) of the Code are not considered as filed in a superseding chapter 7 case. The creditor must file a claim in the superseding chapter 7 case.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Subdivision (a) is amended to conform to the renumbering of subdivisions of Rule 1019. Subdivision (c) is amended to include chapter 12 cases. Subdivision (c)(4) is amended to clarify that it includes a claim arising from the rejection of an unexpired lease.

NOTES OF ADVISORY COMMITTEE ON RULES—1996 AMENDMENT

The amendments are designed to conform to §§502(b)(9) and 726(a) of the Code as amended by the Bankruptcy Reform Act of 1994.

The Reform Act amended §726(a)(1) and added §502(b)(9) to the Code to govern the effects of a tardily filed claim. Under §502(b)(9), a tardily filed claim must be disallowed if an objection to the proof of claim is filed, except to the extent that a holder of a tardily filed claim is entitled to distribution under §726(a)(1), (2), or (3).

The phrase “in accordance with this rule” is deleted from Rule 3002(a) to clarify that the effect of filing a proof of claim after the expiration of the time prescribed in Rule 3002(c) is governed by §502(b)(9) of the Code, rather than by this rule.

Section 502(b)(9) of the Code provides that a claim of a governmental unit shall be timely filed if it is filed “before 180 days after the date of the order for relief” or such later time as the Bankruptcy Rules provide. To avoid any confusion as to whether a governmental unit’s proof of claim is timely filed under §502(b)(9) if it is filed on the 180th day after the order for relief, paragraph (1) of subdivision (c) provides that a governmental unit’s claim is timely if it is filed not later than 180 days after the order for relief.

References to “the United States, a state, or subdivision thereof” in paragraph (1) of subdivision (c) are changed to “governmental unit” to avoid different treatment among foreign and domestic governments.

GAP Report on Rule 3002. After publication of the proposed amendments, the Bankruptcy Reform Act of 1994 amended sections 726 and 502(b) of the Code to clarify the rights of creditors who tardily file a proof of claim. In view of the Reform Act, proposed new subdivision (d) of Rule 3002 has been deleted from the proposed amendments because it is no longer necessary. In addition, subdivisions (a) and (c) have been changed after publication to clarify that the effect of tardily filing a proof of claim is governed by §502(b)(9) of the Code, rather than by this rule.

The amendments to §502(b) also provide that a governmental unit’s proof of claim is timely filed if it is filed before 180 days after the order for relief. Proposed amendments to Rule 3002(c)(1) were added to the published amendments to conform to this statutory change and to avoid any confusion as to whether a claim by a governmental unit is timely if it is filed on the 180th day.

The committee note has been re-written to explain the rule changes designed to conform to the Reform Act.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

Subdivision (c)(1) is amended to reflect the addition of §1308 to the Bankruptcy Code in 2005. This provision requires that chapter 13 debtors file tax returns during the pendency of the case, and imposes bankruptcy-related consequences if debtors fail to do so. Subdivision (c)(1) provides additional time for governmental units to file a proof of claim for tax obligations with respect to tax returns filed during the pendency of a chapter 13 case. The amendment also allows the governmental unit to move for additional time to file a proof of claim prior to expiration of the applicable filing period.

Subdivision (c)(5) of the rule is amended to set a new period for providing notice to creditors that they may file a proof of claim in a case in which they were previously informed that there was no need to file a claim. Under Rule 2002(e), if it appears that there will be no distribution to creditors, the creditors are notified of this fact and are informed that if assets are later discovered and a distribution is likely that a new notice will be given to the creditors. This second notice is prescribed by Rule 3002(c)(5). The rule is amended to direct the clerk to give at least 90 days’ notice of the time within which creditors may file a proof of claim. Setting the deadline in this manner allows the notices being sent to creditors to be more accurate regarding the deadline than was possible under the prior rule. The rule previously began the 90 day notice period from the time of the mailing of the notice, a date that could vary and generally would not even be known to the creditor. Under the amended rule, the notice will iden-

tify a specific bar date for filing proofs of claim thereby being more helpful to the creditors.

Subdivision (c)(6) is added to give the court discretion to extend the time for filing a proof of claim for a creditor who received notice of the time to file the claim at a foreign address, if the court finds that the notice was not sufficient, under the particular circumstances, to give the foreign creditor a reasonable time to file a proof of claim. This amendment is designed to comply with §1514(d), added to the Code by the 2005 amendments, and requires that the rules and orders of the court provide such additional time as is reasonable under the circumstances for foreign creditors to file claims in cases under all chapters of the Code.

Other changes are stylistic.

Changes Made After Publication. Subdivision (c)(1) was amended to allow governmental units to move for an enlargement of the time to file a proof of claim. The Committee Note was amended to describe this addition to the rule.

Rule 3003. Filing Proof of Claim or Equity Security Interest in Chapter 9 Municipality or Chapter 11 Reorganization Cases

(a) **APPLICABILITY OF RULE.** This rule applies in chapter 9 and 11 cases.

(b) **SCHEDULE OF LIABILITIES AND LIST OF EQUITY SECURITY HOLDERS.**

(1) *Schedule of Liabilities.* The schedule of liabilities filed pursuant to §521(1) of the Code shall constitute prima facie evidence of the validity and amount of the claims of creditors, unless they are scheduled as disputed, contingent, or unliquidated. It shall not be necessary for a creditor or equity security holder to file a proof of claim or interest except as provided in subdivision (c)(2) of this rule.

(2) *List of Equity Security Holders.* The list of equity security holders filed pursuant to Rule 1007(a)(3) shall constitute prima facie evidence of the validity and amount of the equity security interests and it shall not be necessary for the holders of such interests to file a proof of interest.

(c) **FILING PROOF OF CLAIM.**

(1) *Who May File.* Any creditor or indenture trustee may file a proof of claim within the time prescribed by subdivision (c)(3) of this rule.

(2) *Who Must File.* Any creditor or equity security holder whose claim or interest is not scheduled or scheduled as disputed, contingent, or unliquidated shall file a proof of claim or interest within the time prescribed by subdivision (c)(3) of this rule; any creditor who fails to do so shall not be treated as a creditor with respect to such claim for the purposes of voting and distribution.

(3) *Time for Filing.* The court shall fix and for cause shown may extend the time within which proofs of claim or interest may be filed. Notwithstanding the expiration of such time, a proof of claim may be filed to the extent and under the conditions stated in Rule 3002(c)(2), (c)(3), (c)(4), and (c)(6).

(4) *Effect of Filing Claim or Interest.* A proof of claim or interest executed and filed in accordance with this subdivision shall supersede any scheduling of that claim or interest pursuant to §521(a)(1) of the Code.

(5) *Filing by Indenture Trustee.* An indenture trustee may file a claim on behalf of all known