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September 11, 2024

Mr. Scott Myers
Administrative Office of the U.S. Courts
Thurgood Marshall Federal Judiciary Building
One Columbus Circle, NE, Washington, DC 20544

Re: Suggested Amendment to Bankruptcy Rule 3001(c)

Dear Scott,

I am writing to request that the Bankruptcy Rules Committee consider an amendment to Rule 3001(c) to address a substantive change made by the restyling of the rule.

Before Rule 3001 was restyled, the sanction provision in former Rule 3001(c)(2)(D) stated that it applied to any claimant who fails “to provide any information required by this subdivision (c).” Subdivision (c) before the restyling applied to (c)(1), (c)(2) and (c)(3), and therefore included the requirements in former (c)(3) for a claim based on an open-end or revolving consumer credit agreement that are now in Rule 3001(c)(4). As a result, courts had held before the restyling that the sanction provision in former Rule 3001(c)(2)(D), which is now Rule 3001(c)(3), was applicable to the disclosure requirements for open-end consumer credit agreements. *See, e.g., In re Turnage*, 642 B.R. 435, 441 (Bankr. D.S.C. 2022) (sanctions may be awarded under former Rule 3001(c)(2)(D) if a holder of a claim fails to comply with any of the requirements under Rule 3001(c)); *Nicholson v. eCast Settlement Corp.*, 602 B.R. 295 (Bankr. M.D. Pa. 2019) (noting that former Rule 3001(c)(2)(D) applied to claimant’s failure to provide requested credit card agreement; court declined to impose sanctions); *Snedeker v. PYOD, LLC (In re Snedeker)*, 2018 WL 3583047 (Bankr. M.D. Pa. July 25, 2018) (sanctions under former Rule 3001(c)(2)(D) may apply where claimant fails to provide upon request a copy of an open-end consumer credit agreement).

In its current form, the sanction provision in Rule 3001(c)(3) states that it applies when a “claim holder fails to provide any information required by (1) or (2)...,” and therefore it does not apply to information required by Rule 3001(c)(4) for open-end consumer credit agreements.

While the restyling of the rules was intended to be only stylistic, it appears to have resulted in a substantive change in this instance. Thus, I request that the Bankruptcy Rules Committee consider amending the first sentence in Rule 3001(c)(3) as follows:

If the debtor is an individual and a claim holder fails to provide any information required by (1), ~~or~~ (2), or (4), the court may, after notice and a hearing, take one or both of these actions:

Thank you for considering this suggestion.

Kind Regards,

/s/ John

John Rao
Senior Attorney