

INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In particular types of cases or circumstances, such as bankruptcy cases that are not filed voluntarily by a debtor, there may be exceptions to these general rules. **If you have questions regarding these instructions and definitions, please consult an attorney. Neither the Clerk's office nor the trustee (if one has been appointed) is permitted to give legal advice.**

---- DEFINITIONS ----

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| <p>Debtor</p> <p>The person, corporation, or other entity that has filed a bankruptcy case is called the debtor.</p> <p>Creditor</p> <p>A creditor is any person, corporation, or other entity to whom the debtor owed a debt on the date that the bankruptcy case was filed.</p> <p>Proof of Claim</p> <p>A form telling the bankruptcy court how much the debtor owed a creditor at the time the bankruptcy case was filed (the amount of the creditor's claim). This form must be filed with the clerk of the bankruptcy court where the bankruptcy case was filed.</p> | <p>Secured Claim</p> <p>A claim is a secured claim to the extent that the creditor has a lien on property of the debtor (collateral) that gives the creditor the right to be paid from that property before creditors who do not have liens on the property.</p> <p>Examples of liens are a mortgage on real estate and a security interest in a car, truck, boat, television set, or other item of property. A lien may have been obtained through a court proceeding before the bankruptcy case began; in some states a court judgment is a lien. In addition, to the extent a creditor also owes money to the debtor (has a right of setoff), the creditor's claim may be a secured claim. (See also <i>Unsecured Claim</i>.)</p> | <p>Unsecured Claim</p> <p>If a claim is not a secured claim it is an unsecured claim. A claim may be partly secured and partly unsecured if the property on which a creditor has a lien is not worth enough to pay the creditor in full.</p> <p>Unsecured Priority Claim</p> <p>Certain types of unsecured claims are given priority, so they are to be paid in bankruptcy cases before most other unsecured claims (if there is sufficient money or property available to pay these claims). The most common types of priority claims are listed on the proof of claim form. Unsecured claims that are not specifically given priority status by the bankruptcy laws are classified as <i>Unsecured Nonpriority Claims</i>.</p> |
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Items to be completed in Proof of Claim form (if not already filled in)

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| <p>Court, Name of Debtor, and Case Number:</p> <p>Fill in the name of the federal judicial district where the bankruptcy case was filed (for example, District of South Dakota), the name of the debtor in the bankruptcy case, and the bankruptcy case number. If you received a notice of the case from the court, all of this information is near the top of the notice.</p> <p>Information about Creditor:</p> <p>Complete the section giving the name, address, and telephone number of the creditor to whom the debtor owes money or property, and the debtor's account number, if any. If anyone else has already filed a proof of claim relating to this debt, if you never received notices from the bankruptcy court about this case, if your address differs from that to which the court sent notice, or if this proof of claim replaces or amends a proof of claim that was already filed, check the appropriate box on the form. A proof of claim <i>replaces</i> another proof of claim if it is intended to supersede a proof of claim filed by someone else on your behalf (such as the trustee, the debtor, a guarantor, or a co-debtor). A proof of claim <i>amends</i> another proof of claim if it is intended to correct or change a proof of claim you filed previously.</p> <p>1. Basis for Claim:</p> <p>Check the type of debt for which the proof of claim is being filed. If the type of debt is not listed, check "Other" and briefly describe the type of debt. If you were an employee of the debtor, fill in your social security number and the dates of work for which you were not paid.</p> <p>2. Date(s) Debt Incurred:</p> <p>Fill in the date(s) when the debt first was owed by the debtor.</p> <p>3. Court Judgments:</p> <p>If you have a court judgment for this debt, state the date(s) the court entered the judgment.</p> | <p>4. Total Amount of Claim at Time Case Filed:</p> <p>Fill in the amount of your secured claim (if any), the amount of your unsecured claim (if any), the amount of your priority claim (if any), and the total amount of your claim.</p> <p>5. Secured Claim:</p> <p>Check the appropriate place if the claim is a secured claim. You must state the type and value of property that is collateral for the claim and state the amount past due on the claim as of the date the bankruptcy case was filed. A claim may be partly secured and partly unsecured. (See DEFINITIONS, above).</p> <p>6. Unsecured Priority Claim:</p> <p>Check the appropriate place if you have an unsecured priority claim, and state the amount entitled to priority. (See DEFINITIONS, above). A claim may be partly priority and partly nonpriority if, for example, the claim is for more than the amount given priority by the law. Check the appropriate place to specify the type of priority claim.</p> <p>7. Credits:</p> <p>By signing this proof of claim, you are stating under oath that in calculating the amount of your claim you have given the debtor credit for all payments received from the debtor.</p> <p>8. Supporting Documents:</p> <p>DO NOT ATTACH SUPPORTING DOCUMENTS to your proof of claim. Pursuant to the Court's October 23, 2002 General Order, you must provide copies of any supporting documents to the trustee, debtor-in-possession, or attorney for the debtor-in-possession upon request.</p> |
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