K&L|GATES

K&L Gates LLP
Hearst Tower, 47th Floor
214 North Tryon Street
Charlotte, NC 28202

T 704.331.7400 www.klgates.com

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John H. Culver III
D 704.331.7453
F. 704.353.3153
john.culver@klgates.com

Peter J. McCabe
Secretary of the Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
Thurgood Marshall Federal Judiciary Building
Washington, DC 20544

09-BK-143

RE: Proposed Amendments to Fed. R. Bank. P. 3001

Dear Mr. McCabe:

I am writing to submit comments to the Committee on Rules of Practice and Procedure in connection with the Committee's consideration of proposed amendments to Fed. R. Bank. P. 3001 (the "Proposed Amendments"). Our firm generally represents creditors in bankruptcy proceedings. Relevant to the Proposed Amendments, our firm has represented eCast Settlement Corporation ("eCast") in reviewing the Proposed Amendments and considering how the proposals may affect unsecured creditors who hold open-end or revolving consumer credit claims, including purchasers of such claims. eCast purchases unsecured claims, primarily claims arising from credit card debts, directly from credit card issuers, and will be directly affected by the Proposed Amendments.

We respectfully submit that the Proposed Amendments should not be adopted, or at a minimum, should be revised so as to minimize the unduly burdensome impacts that they will have upon holders of open-end or revolving consumer credit claims, including credit card debt.

Although not articulated by the Committee, one reason for the Proposed Amendments appears to be the belief that debt buyers, such as eCast, are responsible for the increasing number of filed claims. *See, e.g., In re Andrews*, 394 B.R. 384, 389 (Bankr. E.D.N.C. 2008) (suggesting that amendments to the Bankruptcy Rules should be considered to address the burden being placed on debtors by the large number of claims being filed by bulk debt purchasers).[1] There is

[1] The issues raised in *Andrews* were referred to a working group of the Subcommittee on Consumer Issues which first suggested the proposed amendment to Rule 3001(c)(1) to require that revolving credit claims include a copy of the last account statement sent to the debtor. *See* Memorandum to Advisory Committee of Bankruptcy Rules Regarding Filing of Claim by Consumer Debt Buyers (Feb. 17, 2009) (hereinafter, the "Working Committee Report"].

no empirical evidence to support that assertion.[2] The purchase and sale of claims does not increase the number of claims that exist. The only thing that changes when a claim is assigned is that the identity of the party filing the claim changes. It may be true that the number of claims filed in consumer cases has increased in recent years. But it is equally true that there has been a recent, phenomenal increase in the number of credit cards and amount of revolving debt held by the average consumer. For example, according to the Federal Reserve, the mean value of credit card balances more than doubled from 1989 through 2007.[3] Thus, it is not surprising that there has been a related increase in the number of claims filed in the bankruptcy proceedings of consumer debtors. That increase is not the result of any inappropriate conduct by debt purchasers. Rather, it is the inevitable consequence of the fact that consumers have far more revolving debt than they once did.

The purchase and sale of consumer debt claims, including credit card receivables, provides important benefits to the United States economy. In a study prepared in 2008, PriceWaterhouseCoopers LLP estimated that third party collection activity in 2007 reduced consumer prices and increased consumer purchasing power by allowing businesses to recoup losses from bad debt. The report estimated that the $40.4 billion in debt returned to creditors was equivalent to an average savings of $354 per American household that might have otherwise been spent had businesses been forced to raise prices to cover the unrecovered debt.[4] The purchase and sale of credit card receivables is an important component of this process. The Federal Reserve estimates that during the first quarter of 2009, issuers charged off $7.5 billion, which represents a charge off rate of 7.6 percent. By the third quarter of 2009, that percentage had increased to 10.10 percent.[5] Debt buyers assist in the recovery of those amounts, which provides a direct benefit to the overall economy.

We believe that the Committee has not received sufficient industry input to determine the effect that the proposals will have on industry practices that are well-established and recognized by the courts as appropriate.[6] The Committee should follow a procedure similar to that adopted when it initially considered amending the rules that apply to mortgage related proofs of claims

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[2] *See, e.g., In re Shank*, 315 B.R. 799, 815 (Bankr. N.D. Ga. 2004) ("The debtor and others suggest that creditors or claims buyers as a matter of routine practice file unlawful claims that improperly include postpetition interest or unauthorized charges. If this happens, there should be a remedy for it. There is no evidence, however, that the claimants in this case, or creditors or claims buyers generally, routinely file such overstated claims.").

[3] Attached hereto as Exhibit A is a chart and related graph showing the increase in credit card balances from 1989 through 2007. This chart is contained in the 2007 Federal Reserve Survey of Consumer Finances Chartbook, which is available at www.federalreserve.gov/PUBS/oss/oss2/2007/2007%20SCF%20Chartbook.pdf.

[4] PricewaterhouseCoopers LLP, *The Value of Third-Party Debt Collection to the U.S. Economy in 2007: Survey and Analysis,* June 12, 2008 at iii. The report is available at hppt://www.acainternational.org.

[5] *See* Federal Reserve Statistical Release, Charge-Off and Delinquency Rates on Loans and Leases at Commercial Banks; www.federalreserve.gov/releases/chargeoof/chgallnsa.htm (last visited February 16, 2010).

[6] *See In re Wingerter*, -- F.3d --, 2010 WL 252184 (6th Cir. 2010).

and consult with the appropriate industry leaders. The proposed rules that address mortgage claims result from a process that first began in 2002. The National Association of Chapter 13 Trustees formed a Mortgage Liaison Committee that included both chapter 13 trustees and attorneys for mortgage servicers. The Mortgage Liaison Committee then generated a set of "best practices" regarding mortgage claims in bankruptcy.[7] The Mortgage Liaison Committee then worked with the Subcommittee of Consumer Issues for the Advisory Committee on Bankruptcy Rules regarding proposed Rule 3001(c)(2) and proposed Rule 3002.1. Similar discussions have not occurred with representatives of the credit card industry. Instead, Rule 3001(c)(1) was first proposed in February, 2009,[8] as an add-on to the mortgage claim amendments that were proposed only after extensive discussions with the mortgage servicing industry. Now, just one year later, the amendment has been proposed for adoption without prior discussion with members of the credit card industry.

We believe that the Proposed Amendments should not be adopted until discussions can occur with representatives of the credit card and debt purchasing industries. Otherwise, as discussed in more detail below, the proposed rules will create unduly burdensome requirements that may be impossible for some unsecured creditors to satisfy.

A. The Proposed Amendments Are Unnecessary Because Adequate Safeguards Currently Exist.

Under the Proposed Amendments, it appears that the holder of a revolving or open-ended consumer account would be required to attach a copy of the debtor's last account statement to the proof of claim (proposed Rule 3001(c)(1)) and include an itemized statement of any interest, fees or other charges in addition to the principal amount of the claim (proposed Rule 3001(c)(2)(A)). Failure to include this information appears to preclude presentation of the omitted information, in any form, in a subsequent contested matter or adversary proceeding and subject the filer to potential sanctions (proposed Rule 3001(c)(2)(D)).

Current rules provide adequate remedies if a creditor or alleged creditor files an improper claim. Rule 9011 already provides for the possibility of sanctions if a creditor files a claim for which there is no legitimate basis. In addition, federal law provides for the imposition of criminal penalties for filing false claims pursuant to 18 U.S.C. § 152 and 3571. The Proposed Amendments would impose additional requirements and create additional sanctions that would apply to creditors holding revolving consumer debt claims.

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[7] A history of this process is contained in congressional testimony by one of the members of the Mortgage Liaison Committee. *See* Hearing Before the Senate Judiciary Committee Subcommittee on Administrative Oversight and the Courts, "Policing Lenders and Protecting Homeowners: Is Misconduct in Bankruptcy Fueling the Foreclosure Crisis?" (May 6, 2008) (Testimony of Debra Miller) (available at: http://judiciary.senate.gov/hearings/testimony.cfm?id=3327&wit_id=7159)

[8] *See* Working Committee Report.

The desire to assist debtors with the increased burdens resulting from the increasing number of debts that they seek to discharge is understandable. However, creating procedural requirements that as a practical matter may limit the ability of creditors to file legitimate claims is not an appropriate solution to any perceived problem and will serve only to artificially limit the filing of claims held by holders of open-ended or revolving consumer debt claims. There is no need to create rules that will result in the disallowance of legitimate claims when current rules are already in place that are sufficient to police any inappropriate creditor behavior.

B. The Account Statement Requirement Is Unnecessary And Raises Privacy Concerns.

The proposed change to Rule 3001(c)(1) requiring holders of open-ended and revolving consumer debts to attach to a proof of claim the last account statement sent to the debtor raises two significant problems. First, the account statement requirement ignores the commercial reality that most account information is stored in electronic format, and it may not be practical for holders of revolving debt claims to provide a duplicate of the account statement that has already been sent to the debtor. Second, the rule raises important privacy concerns because an individual's credit card statement may contain details of purchases that are extremely personal or private or of a confidential nature.

1. The Proposed Amendment Imposes An Unnecessary Burden on Creditors.

Although the proposed requirement to attach the last account statement mailed to a debtor prior to the bankruptcy filing appears to be simple, in actuality it presents an unnecessary obstacle to filing an otherwise valid proof of claim. There is no reason to provide a second copy of a statement that was provided to the debtor prior to bankruptcy. The second copy of the account statement does not provide any new information to the creditor; the debtor has necessarily received a copy of the statement prior to the bankruptcy filing and had the opportunity to challenge the charges contained on the statement.[9] Providing another copy of that account statement does nothing more than impose an unnecessary procedural hurdle on the debt holder.

Open-end or revolving consumer credit holders, including holders of credit card debt, may not retain copies of the statements mailed to the debtor.[10] The inability to produce an account statement at the time the case is filed does not mean that the claim is invalid. The electronic records maintained by holders of revolving consumer debt contain information

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[9] Credit card billing disputes are governed by applicable regulations. *See* 12 C.F.R. § 226.13(b) (stating that borrowers must provide a billing error notice no later than 60 days after the billing statement is provided).

[10] See for example 12 C.F.R. § 226.25 (requiring records to be maintained for two years).

sufficient to show the amounts owed by individual debtors and other information from which it is sufficient to determine whether to file a claim. It is typically not practical (or economical) to generate an account statement in the form last mailed to the debtor. As a result, it may be impractical at best, and in some cases impossible, for creditors to comply with this proposed requirement.

As discussed in more detail below, the penalties that would be imposed upon holders of open-ended and revolving consumer claims who do not attach a copy of the last account statement mailed to the debtor to a proof of claim are draconian. Under proposed rule 3001(c)(2)(D), if an account statement is not attached, then a claimant is prevented from presenting into evidence in any subsequent contested matter the information that would have been contained in that account statement *in any form*. As a practical matter, this will result in the disallowance of any claim for which an account statement is unavailable because it will prevent the creditor from presenting evidence of the claim in any alternate form even if the information contained in some alternate format is otherwise admissible and sufficient to validate the claim.[11] Some examples of those alternative formats that would constitute adequate proof include electronically stored information.

By imposing an absolute requirement for the attachment of an account statement regardless of whether the claim can be supported by electronic information stored in another form, the proposed change represents a step backward from recent changes to the Federal Rules of Civil Procedure, which were drafted to address the modern-day reality of electronically stored information. For instance, Rule 34 now provides that a party responding to a request for production may produce electronically stored information in the form in which it is ordinarily maintained or in another reasonably usable form. As stated by the Advisory Committee when Rule 34 was amended, a requirement that "diverse types of electronically stored information all be produced in the same form could prove impossible, and even if possible could increase the cost and burdens of producing and using the information." *See* Fed. R. Civ. P 34 (adv. cmt. 2006). Although Rule 34 is incorporated into the Bankruptcy Rules by Rules 7034 and 9014, the proposed amendment ignores the logic behind Rule 34 and would require the production of information in a specified form even if it is impossible for the creditor to provide the information in that format.

Finally, there is no compelling reason to impose this additional procedural hurdle. According to the Working Committee's report, requiring the filing of the account statement

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[11] In *In re Wingerter*, the Court of Appeals found that reliance on electronic information such as the debtor's home, address, contact information, and Social Security number, as well as original account number, the original creditor's home, the original amount owed, the date the original account was opened, and bankruptcy case information, coupled with a history of reliable information was "clearly reasonable" to support filing a claim. *In re Wingerter*, 2010 WL 252184, at *8.

serves three purposes: (i) it would provide an indication regarding how recently payment was sought on the account, (ii) it would provide the debtor with the name of the original creditor, and (iii) it would tend to show that the entity filing the claim was the actual assignee of the claim.[12] First, it should be noted that the date of the last account statement may bear no relationship to when collection efforts last occurred. Thus, attaching an account statement will do nothing to address the first stated purpose of the amendment. Similarly, attaching an account statement is not necessary to satisfy the other two purposes of the amendment. If the goal of the account statement requirement is to permit the debtor to identify the original creditor and verify that only one claim is filed with respect to each claim, that goal is better served by requiring disclosure of the original creditor. Accordingly, although we believe there is no need for any amendment to Rule 3001(c)(1), if the rule is to be amended, it should be amended to address directly the purposes the Working Committee has articulated.

So long as the filer of a proof of claim, whether the original holder or a subsequent purchaser, has satisfied its obligations to verify the nature and extent of the claim under the current rules, there is no compelling reason to require that the actual account statement be attached to a proof of claim when a debtor has already received that very document. If the debt holder violates the current rules, there are adequate mechanisms in place to address that issue. Implementation of the proposed rule will inevitably lead to the disallowance of claims even where there is sufficient evidence to validate the claim.

2. The Proposed Amendment Raises Significant Privacy Concerns.

In addition to the hardships imposed upon creditors, the proposed amendment presents significant privacy concerns for individual debtors. Production of an account statement in full could reveal every purchase made by a debtor during the period covered by the statement. Certain of those purchases may reflect or suggest extremely private information, such as medical conditions the debtor would prefer to keep private or other information that the debtor may not prefer to have disclosed. In other contexts, such information has been deemed to be confidential and personal information subject to protective order pursuant to Rule 26(c).[13] There is no reason to create a rule that requires disclosure of confidential information when there is another way to address the concerns that the amendment is designed to address.

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[12] *See* Working Committee Report at p. 5.

[13] *See Louisiana Carpenters Regional Council v. Creech*, 2006 WL 1968929 at *1 (E.D. La. 2006) (noting that a protective order had been granted with respect to the production of credit card statements).

C. Itemization of Interest Should Not Apply To Revolving Consumer Credit Claims.

Proposed Rule 3001(c)(2)(A) provides that if a claim includes interest, fees or other charges in addition to the principal amount of the claim, then the proof of claim must provide an itemization of the interest, fees, or other expenses included in the claim. This proposed rule is included with other proposals that are intended to prescribe the supporting information to be included in proofs of claim for an obligation secured by a home mortgage.[14] For instance, other subsections of proposed Rule 3001(c)(2) clarify that they apply only if a security interest is claimed in property of the debtor. *See* Proposed Rule 3001(c)(2)(B) and (C). Proposed Rule 3001(c)(2)(A) should be similarly modified to clarify that it only applies to mortgage claims for the following reasons.

First, the changes that are proposed for Rule 3001(c)(2)(A) were designed to address perceived abuses by holders of mortgage claims, not unsecured claims. There has been recent criticism regarding the imposition of inspection fees and other charges that may be imposed by mortgage servicers without any notice to borrowers.[15] This problem does not exist in the context of credit card claims because these claims are unsecured, and there is no collateral to inspect or appraise. In addition, credit card customers receive monthly statements itemizing all charges to the account. There is no reason to include credit card claims within the scope of claims affected by the Proposed Amendment when those credit card claims do not present the type of problems that the amendment is designed to address.

Second, the requirement imposes an unnecessary burden upon revolving and open-ended consumer creditors. Because of the nature of credit card claims, any itemization of that portion of the principal balance that originally represented unpaid interest could require a review of the entire payment history for a particular account. Depending upon the terms of the applicable credit agreement, unpaid interest and fees may be added to the outstanding principal balance.[16] As a result, even in a case where a debtor acknowledged the claim in the debt schedules, the creditor would be forced to review the entire payment history (which could cover several years)

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[14] *See* Memorandum from Subcommittee on Consumer Issues Regarding Feedback on Proposed Amendments to Rule 3001(c) and New Rule 3002.1, and Recommended Modification of Rule 3002.1 (February 19, 2009), at p. 1 ("Among other things, these rules prescribe the supporting information to be included in a proof of claim for an obligation secured by a home mortgage and the procedure for disclosing and challenging in chapter 13 cases post-petition mortgage payment changes and charges.")

[15] *See, e.g., In re Dorothy Stewart*, 391 B.R. 327, 342-346 (Bankr. E.D. La. 2008) (describing problems associated with the automated assessment of inspection and appraisal fees without notice to the borrower).

[16] The ability of credit card issuers to add fees and interest is a permissible practice depending upon the law of the applicable state. *See, e.g., Manfra, Tordella and Brookes, Inc. v. Bunge*, 794 F.2d 61, 63 n. 3 (2d Cir. 1986) (noting that under New York law, once interest has accrued, it becomes a debt no different than any other debt and may be viewed as the principal amount of a new loan). Applicable federal regulations expressly reference the possibility of interest and fees being added to the principal balance owed. 12 C.F.R. § 226.5a(g).

and create a business record itemizing interest that may not exist as a standard business record. This is different from the situation for mortgage claims where principal and interest are typically accounted for separately, and provision of an itemized statement would not require a review of the entire payment history or the creation of a new record. Moreover, credit card borrowers receive monthly statements that detail all amounts being added to the principal balance and provide the borrower with a period (usually 60 days) to object to any fee or charge listed on the statement. [17] Thus, while the itemization requirement may appear relatively simple and serve a legitimate purpose for most mortgage claims, the proposed rule imposes an unduly burdensome requirement on holders of credit card debt.

Holders of credit card and revolving debt should not be included in a blanket rule designed to address issues that arise in the mortgage context and that would require them to create records that do not otherwise exist. Any issues regarding the amount of a credit card claim can be resolved after a debtor files an objection to a claim. This would ensure that the time-consuming effort involved in preparing the itemized statement contemplated by proposed Rule 3001(c)(2)(A) would only have to be undertaken when there is a legitimate dispute to the claim. Accordingly, if proposed Rule 3001(c)(2)(A) is adopted it should be revised to clarify that it only applies to mortgage claims.

D. Proposed Rule 3001(c)(2)(D) May Result In The Disallowance of Valid Claims.

As briefly discussed above, proposed Rule 3001(c)(2)(D) provides that if any information required by subsection (c) is not provided with the proof of claim, the creditor will be precluded from presenting the information *in any form* in a subsequent contested matter or adversary proceeding. The proposed rule also provides for the recovery of reasonable expenses and attorneys' fees. The proposed rule goes far beyond that necessary to prevent creditor misconduct.

Under proposed Rule 3001(c)(2)(D), the failure to attach an account statement would preclude holders of open-end or revolving consumer credit claims, including credit card debt, from presenting information contained in the original account statement even if the information is otherwise available in some other format that is sufficient to validate the claim. Regardless of the substance or merits of the underlying claim, a creditor would be precluded from presenting evidence in support of that claim solely because it is unable to provide information in a particular format at the time the claim is filed. Thus, the combination of the proposed amendment to Rule 3001(c)(1) and the proposed Rule 3001(c)(2)(D) will inevitably lead to the disallowance of legitimate claims solely due to a failure to provide information in a specific format without any

[17] Credit card billing disputes are governed by applicable regulations. *See* 12 C.F.R. § 226.13(b) (stating that borrowers must provide a billing error notice no later than 60 days after the billing statement is provided).

inquiry into the underlying merits of the claim. This is the exact type of formalistic pleading rejected by the Rules of Civil Procedure.[18] There is no reason for a heightened standard in the bankruptcy context.

The fact that the proposed rule would allow the admission of omitted information in an alternate form if the court found the original omission to be "substantially justified" or "harmless" does not alleviate this problem. The rule provides no guidance as to when an omission would be substantially justified or harmless, and the determination apparently would be made without any inquiry into the underlying merits of the claim. Thus, a creditor that cannot satisfy the requirements of the Proposed Amendments will be subject to litigation in every case over the issue of whether its inability to provide an account statement or itemized statement of interest was substantially justified or harmless. In many cases, it will not be economically practical to litigate this issue even in cases where the holders of open-end or revolving consumer credit claims, including credit card debt, have more than sufficient information to validate the claim and have provided sufficient information in the proof of claim for the debtor to investigate the claim.

This problem is exacerbated by the possibility of court-imposed sanctions under Rule 3001(c)(2)(D). The proposed rule does not specify the standards for imposition of sanctions. Debtors have argued that creditors should be subject to sanctions under Rule 9011 solely for failure to comply with Rule 3001, although such an argument was recently rejected by the Sixth Circuit Court of Appeals.[19] It is unclear whether proposed Rule 3001(c)(2)(D) imposes a lesser standard than Rule 9011 or what type of harm, if any, a debtor must demonstrate to obtain "appropriate relief" against a creditor. The rule will inevitably lead to further litigation over the form rather than the substance of claims with debtors arguing that they are entitled to recover sanctions because a creditor failed to comply with the new requirements regardless of whether or not there was a legitimate reason to believe the claim was valid at the time it was filed.

Debtors are not prejudiced by the filing of a claim that does not contain supporting evidence in the form of an account statement at the time the claim is filed. Legal prejudice results only from "prejudice to some legal interest, some legal claim, [or] some legal argument."[20] Any time a claim is filed, a debtor has the right to object to the claim. That right is not lost simply due to a creditor's inability to attach certain documentation. Thus, the inability to attach certain documentation cannot result in legal prejudice to a debtor. Therefore, there is no reason to adopt a new rule that creates that possibility for a debtor to be awarded sanctions when a creditor has fully complied with its obligations under Rule 9011.

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[18] *See* Fed. R. Civ. P. 8(a)(2) (requiring only a short plain statement of the claim).
[19] *See In re Wingerter*, -- F.3d --, 2010 WL 252184 (6th Cir. 2010).
[20] *See, Wetlands Water Dist. v. United States*, 100 F.3d 94, 97 (9th Cir. 1996).

The case of *In re Cleveland*, 396 B.R. 83 (Bankr. N.D. Okla. 2008), demonstrates the effect that this rule may have on creditors. In that case, chapter 13 debtors objected to claims asserting that the claims did not comply with Rule 3001 and that the creditors who filed the claims were unable to show that they were the current owners of the debt. *Id.* at 86. Significantly, the amounts claimed by the creditors were in some cases virtually identical to the amounts scheduled by the debtors. For instance, one debtor objected to claims in the amount of $17,619.60 and $3,770.28 even though the claims had been scheduled in the amounts of $17,619.00 and $3,770.00. *Id.* at 89-90. The objecting debtor provided no evidence or reason to challenge the validity or amount of the claims other than to say that she had never heard of the debt purchaser who filed the proof of claim. *Id.* at 90. Although the creditors' claims were ultimately allowed, the creditors were required to have a witness testify at a hearing and produce reams of documents even though there was no substantive objection to the claims. If the proposed rules had been in place, however, the creditor possibly would have been precluded from presenting this evidence, and the claims would have been disallowed, and the claimant possibly sanctioned, even though the filed claims were only $0.88 greater than the scheduled amounts and there was no dispute regarding the existence of the debt.

In a similar case, the bankruptcy court in *In re Shank*, 315 B.R. 799 (Bankr. N.D. Ga. 2004) explained the unfairness of subjecting creditors to the burdens imposed by the amendment when there is no substantive basis to challenge the claim. The court stated:

> This conclusion also follows from Rule 1001, which provides, "These rules shall be construed to secure the just, speedy, and inexpensive determination of every case and proceeding." A bankruptcy case imposes burdens on creditors. The obvious economic loss through total or partial discharge of debt, of course, is a necessary and expected consequence of the relief that the Bankruptcy Code provides for debtors. But that injury need not be compounded by imposing unnecessary costs on creditors who desire to participate fairly in the process. Given the uncertainties of eventual recovery in a given bankruptcy case, many creditors may have no economic incentive to respond to an objection to a claim even if the claim is valid; the expense of doing so may easily exceed the potential return. Rule 1001's directive requires a bankruptcy court to apply the bankruptcy rules to permit creditors to realize their fair share in a bankruptcy case without unnecessary expense. If there is no underlying dispute about the validity or amount of a proof of claim, there is no legitimate reason to penalize a holder because it does not meet all the technical requirements of the bankruptcy rules that are designed to govern the fair determination of disputes; Rule 1001 requires denial of an objection to an undisputed claim based solely on inadequate documentation.

Id. at 812.

The bankruptcy court in *Shank* further recognized that an inappropriate focus on form rather than substance will simply increase litigation and stated:

> Routinely requiring creditors to attach documentation as a condition to allowance of otherwise allowable claims is an invitation to abuse and more litigation. A creditor who does not respond by attaching documentation (a very real possibility in view of the cost of doing so versus the possible returns, as discussed above) may have an allowable claim denied. A response may generate further disputes over how much documentation is sufficient. Once there is a determination that the documents are sufficient, the debtor might or might not determine there is a basis for disallowance or reduction of a claim. If the objection continues, a hearing will be scheduled, evidence will be presented, and the court will make a decision. In these circumstances, the focus of the claims litigation, at least in its initial stages, becomes compliance with a technical pleading requirement, not the proper amount, if any, due on the merits.

Id. at 813-14.

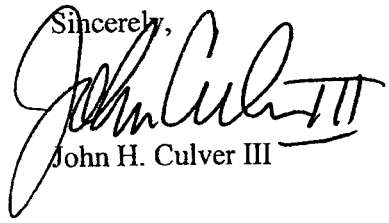
For each of these reasons, proposed Rule 3001(c)(2)(D) should not be adopted.

E. Conclusion.

On behalf of eCast, we respectfully submit that the Proposed Amendments should not be adopted at this time. Rather, the Committee should assemble a study group or other appropriate mechanism to study the Proposed Amendments and the effect that the amendments will have upon the unsecured creditors who hold open-end or revolving consumer credit claims, including purchasers of such claims.

Thank you for considering the suggestions set forth above.

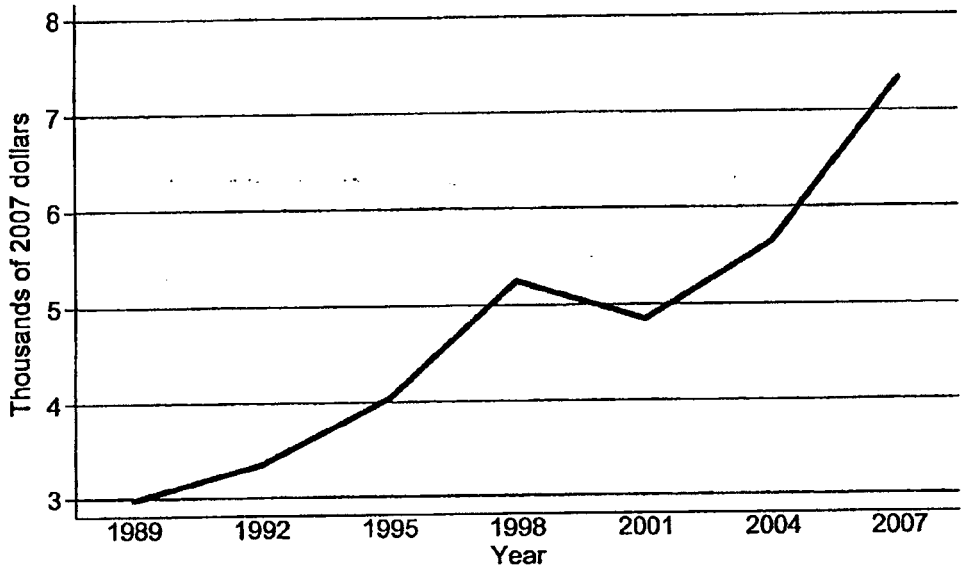
Sincerely,



John H. Culver III

Mean value of credit card balances for families with holdings

For all families



Mean value of credit card balances for families with holdings

Year	All families
Level (thousands of 2007 dollars)	
1989	3.0
1992	3.3
1995	4.0
1998	5.2
2001	4.8
2004	5.6
2007	7.3
Three-year change (percent)	
1992	10.0
1995	21.2
1998	30.0
2001	-7.7
2004	16.7
2007	30.4

EXHIBIT A