

Proof of Claim Form: Quick Reference Guide

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A Standard Document to help counsel prepare a proof of claim on behalf of a creditor that has a claim in a bankruptcy case. This Standard Document has integrated notes with important explanations corresponding to each line of the proof of claim form.

Drafting Note: Read This Before Using Document

A **proof of claim** is a written statement setting out a creditor's **claim** and asserting its right to receive a distribution from the bankruptcy **estate**. It must "conform substantially" to [Official Bankruptcy Form B410 \(Fed. R. Bankr. P. 3001\(a\)\)](#).

The purpose of a proof of claim is to give notice of the claim to the court, the debtor, the **trustee**, and other creditors.

A properly prepared proof of claim is **prima facie** evidence of the validity and amount of the claim ([Fed. R. Bankr. P. 3001\(f\)](#)) and is deemed allowed, unless a **party in interest** (such as the debtor) objects ([§ 502\(a\), Bankruptcy Code](#) and see [Practice Note, Filing a Proof of Claim in a Chapter 11 Bankruptcy Case: Objections to Claims](#)). This means any distribution of the debtor's assets made on account of a claim is based on the filed proof of claim if it is not challenged (or survives a challenge).

The Proof of Claim Form (Official Bankruptcy Form B410) and the Mortgage Proof of Claim Attachment ([Official Bankruptcy Form B410A](#)) are the official forms on which creditors' proofs of claims should be completed and filed.

The information below does not account for all the possible permutations of claims nor the circumstances creditors should detail in their proofs of claim. Also, it does not address processes that may be specific to particular bankruptcy jurisdictions. For information on these requirements, see [Practice Note, Filing a Proof of Claim in a Chapter 11 Bankruptcy Case: Box, Local Bankruptcy Rules: Proofs of Claims and Objections to Claims](#).

For more information of filing proofs of claim, see:

- [Practice Note, Filing a Proof of Claim in a Chapter 11 Bankruptcy Case.](#)
- [Practice Note, Filing a Proof of Claim: Pitfalls and Precautions.](#)
- [Practice Note, Filing a Proof of Claim in an Individual Bankruptcy Case.](#)
- [Practice Note, Filing a Proof of Claim in a Healthcare-Related Bankruptcy.](#)
- [Filing a Proof of Claim in a Chapter 11 or 13 Case by a Municipality Checklist.](#)

For best practices on preparing a proof of claim, see [Practice Note, Filing a Proof of Claim in a Chapter 11 Bankruptcy Case: Best Practices for Preparing a Proof of Claim.](#)



Supporting Documents

The claim can be objected to and possibly disallowed if the creditor fails to attach adequate supporting **documents**. The creditor must attach redacted copies of all relevant documents, invoices, and any other written evidence that supports the claim and shows the existence of the debt, such as **promissory notes**, purchase orders, invoices, contracts, and judgments (*Fed. R. Bankr. P. 3001(c)(1)*). If the creditor is secured, it must also attach copies of documents that evidence perfection of its **lien**, such as the **UCC-1 financing statement** stamped by the Secretary of State and the security agreement or the **mortgage**, certificate of title, or other document showing the lien has been filed or recorded (*Fed. R. Bankr. P. 3003(d)*). The creditor must provide an explanation if the documents are not available (because they are lost, destroyed, in the debtor's or a third-party's possession, or simply do not exist (for example, if **perfection** occurs by possession)). Creditors should apply the following guidelines regarding documents:

- Attach a summary sheet listing the documents submitted with the proof of claim, including a breakdown of the amount claimed, if appropriate (for example, a breakdown of **interest** and fees).
- Attach a summary description of the documents if the documents are voluminous, but this cannot substitute for attaching the actual documents.
- Attach only copies, not originals, of documents
- Redact certain sensitive information, such as Social Security numbers and birth dates (which must only be partially provided).
- For any foreign materials, provide a proper English translation of those documents in their entirety (see *In re Solar Trust of Am., LLC*, 2014 WL 4068635 (Bankr. D. Del. Aug. 18, 2014) and [Legal Update, In re Solar Trust of America, LLC: Delaware Bankruptcy Court Requires English Translation of Foreign Documents Supporting a Proof of Claim](#)).

For more information, see [Practice Note, Filing a Proof of Claim: Pitfalls and Precautions: Documenting a Proof of Claim](#).

END DRAFTING NOTE

A	
Debtor 1	<u>Debtor Dan</u>
Debtor 2 (Spouse, if filing)	<u>_____</u>
	
United States Bankruptcy Court for the:	Eastern District of Tennessee 
Case number	<u>99-bk-9999</u>

Official Form 410

Proof of Claim

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

<p>1. Who is the current creditor?</p>	<p>ABC Creditor 2</p> <p>Name of the current creditor (the person or entity to be paid for this claim)</p> <p>Other names the creditor used with the debtor _____</p>	
<p>2. Has this claim been acquired from someone else?</p>	<p><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____</p>	
<p>3. Where should notices and payments to the creditor be sent?</p> <p>Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)</p> <p>3</p>	<p>Where should notices to the creditor be sent?</p> <p>ABC Creditor</p> <p>Name 123 First St. Number Street New York NY 10022 City State ZIP Code</p> <p>Contact phone (000) 123-4567 Contact email <u>Abc@AbcCreditor.com</u></p>	<p>Where should payments to the creditor be sent? (if different)</p> <p>ABC Creditor Billing</p> <p>Name 123 Second Ave. 4 Number Street New York NY 10022 City State ZIP Code</p> <p>Contact phone (000) 765-4321 Contact email <u>Billing@AbcCreditor.com</u></p> <p>Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____</p>
<p>4. Does this claim amend one already filed?</p>	<p><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ 5 Filed on _____ MM / DD / YYYY</p>	
<p>5. Do you know if anyone else has filed a proof of claim for this claim?</p>	<p><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____</p>	

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

6

7. How much is the claim? \$ 154,321.00. Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

7

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information.

8

MoneyLoaned

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.

9

Nature of property:

- Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
- Motor vehicle
- Other. Describe: _____

10

Basis for perfection: Recorded mortgage

Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: \$ 100,000.00

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Amount of the claim that is secured: \$ 100,000.00

Amount of the claim that is unsecured: \$ 54,321.00 (The sum of the secured and unsecured amounts should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ 20,000.00

12

Annual Interest Rate (when case was filed) 4.00%

- Fixed
- Variable

10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

13

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: _____

14

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)? No 15

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

	Amount entitled to priority
<input type="radio"/> Yes. Check one:	
<input type="radio"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="radio"/> Up to \$* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="radio"/> Wages, salaries, or commissions (up to \$1 [*]) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input type="radio"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="radio"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="radio"/> Other. Specify subsection of 11 U.S.C. § 507(a)(<u> </u>) that applies.	

* Amounts are subject to adjustment on 4/01/ and every 3 years after that for cases begun on or after the

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

I am the creditor.
 I am the creditor's attorney or authorized agent.
 I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
 I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 02/02/2222
MM / DD / YYYY

16

/s/ John Smith
Signature

Print the name of the person who is completing and signing this claim:

Name John Smith
First name Middle name Last name

Title President

Company ABC Creditor
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 123 First St.
Number Street
New York NY 10022
City State ZIP Code

Contact phone (000) 123-4567 Email John@AbcCreditor.com

Where Should Notices to the Creditor be Sent? (Endnote 3)

Confirm the address, phone number, and email address listed here are correct and regularly monitored. Notices of filings and events in the bankruptcy case are to be delivered here. Bankruptcy cases move quickly. It is important that someone is to receive and review notices sent to this location with sufficient time to respond, if necessary. This is particularly important if the debtor objects to the claim, because failing to timely respond to an objection can cause the claim to be disallowed or reduced (see [Practice Note, Filing a Proof of Claim in a Chapter 11 Bankruptcy Case: Objections to Claims](#)). Other parties in interest or the court may also attempt to contact the creditor at the phone number and email address listed here.

The creditor should immediately notify the claims agent, the court, and the debtor if the notice contact information changes at any time after the proof of claim is filed.

Where Should Payments to the Creditor be Sent? (Endnote 4)

Provide the address where payments toward this claim should be submitted. This should be completed if the information is different than the information described in endnote 3 (see [Drafting Note, Box 3: Where Should Notices and Payments to the Creditor be Sent? \(Endnotes 3-4\)](#)).

Box 4: Does this Claim Amend One Already Filed? (Endnote 5)

If this is an amendment to a previously filed proof of claim in the bankruptcy case, disclose that here and identify the original proof of claim by claim number and date filed.

Before the **bar date**, amending a timely filed proof of claim is generally not an issue. Amendments can be filed for the purpose of:

- Curing defects in the original claim.
- Describing the claim in more detail.
- Pleading new theories of recovery on the facts stated in the original claim.

Courts usually scrutinize amendments to ensure that the filer is not attempting to file completely new, untimely claims under the guise of an amendment (see [In re Nortel Networks Inc.](#), 573 B.R. 522, 529 (Bankr. D. Del. 2017)). If the creditor finds an amendment to its claim is necessary, it should file the amendment as soon as possible and explicitly state if the information in the original proof of claim was incorrect. It should also expressly state the following information in the amendment:

- The changed claim amount, with an explanation of how the new amount was calculated.
- The amendment's relation to the original proof of claim.
- Why the information provided in the amendment could not have been included with the original proof of claim.

Part 2: Give Information About the Claim as of the Date the Case was Filed (Endnotes 6-15)

Box 6: Do You Have Any Number You Use to Identify the Debtor? (Endnote 6)

If the creditor has assigned a number to this claim, such as an account number, the last four digits of that number should be listed here. Remember that proofs of claim are publicly filed documents and all account numbers, as well as **personally-identifiable information** (PII), must be truncated or redacted on the proof of claim, as well as on any attachments or documents filed with the proof of claim. Failure to redact can result in fines or sanctions. For more information about the protection of sensitive information in bankruptcy filings, see [Practice Note, Data Privacy in Bankruptcy: Overview: Protection of Sensitive Information in Bankruptcy Filings](#).

Box 7: How Much is the Claim? (Endnote 7)

List the total amount of the claim owed as of the bankruptcy filing date here. If the total amount includes interest, fees, expenses, or other charges, a statement itemizing those amounts (for example, a payoff statement) should be attached to and filed with the proof of claim. Confirm any PII and account numbers on attachments are redacted. Sometimes determining the amount of the claim is relatively straightforward. However, where the claim is more complex, the creditor may not have all the information necessary or enough time, to calculate the amount of the claim until after the bar date has passed. If this is the case, explicitly state on the documents submitted with the proof of claim that the claim is only an estimate and is subject to amendment after review of additional information. Also review the debtor's **schedules** to determine what amount the debtor believes it owes the creditor (see [Practice Note, Filing a Proof of Claim in Chapter 11 Bankruptcy Case: Scheduled Claims](#)). If this amount is greater than the creditor's own calculations, the creditor may have overlooked some accounts or contracts it has with the debtor and should further investigate its books and records.

Box 8: What is the Basis of the Claim? (Endnote 8)

Identify how the debtor came to owe the debt to the creditor here. Documents supporting the debt owed should be attached to and filed with the proof of claim (for example, a promissory note, financing agreement, lease, or a judgment). Confirm any PII and account numbers on attachments are redacted (see [Practice Note, Data Privacy in Bankruptcy: Overview: Redaction or Sealing of Filings Under Bankruptcy Rule 9037](#)).

Box 9: Is All or Part of the Claim Secured? (Endnotes 9-12)**Nature of Property (Endnote 9)**

If the creditor's claim is secured by **collateral**, indicate that here. If the claim is secured by a mortgage, the Mortgage Proof of Claim Attachment ([Official Bankruptcy Form B410A](#)) must be filed with the proof of claim (see [Drafting Note, Mortgage Proof of Claim Attachment](#)).

Basis for Perfection (Endnote 10)

Indicate how the **security interest** for the claim was perfected. Attach any documents evidencing perfection (for example, recorded mortgage, vehicle title with creditor listed, or UCC-1 financing statement). Confirm any PII and account numbers on attachments are redacted.

Value of Property; Amount of Claim that is Secured; Amount of Claim that is Unsecured (Endnote 11)

In bankruptcy, a claim is only secured to the extent of the value of the collateral securing the claim. Any **deficiency** amounts are treated as an **unsecured claim**. Failure to identify amounts of a claim above the value of collateral as unsecured may result in the creditor being barred from receiving any payment toward a deficiency.

Amount Necessary to Cure Any Defaults as of the Date of the Petition (Endnote 12)

If the debtor's account was in **default** on the date it filed for bankruptcy, list the amount here that is needed to cure the default as of that date.

Box 10: Is This Claim Based on a Lease? (Endnote 13)

If the claim arises from a lease, indicate that here, and list any amounts needed to cure a default as of the date the bankruptcy case was filed.

Box 11: Is This Claim Subject to a Right of Setoff? (Endnote 14)

Certain claims, such as those held by banks where the debtor has a **deposit account**, may be subject to **setoff** (see [Practice Note, Creditors' Setoff Rights in Bankruptcy](#)). The creditor should be mindful of the **automatic stay** and obtain relief from the stay if necessary, before taking action to set off amounts owed (see [Practice Note, Automatic Stay: Overview](#)).

For more information, see [Creditors' Setoff Rights in Bankruptcy: Proof of Claim](#).

Box 12: Is All or Part of This Claim Entitled to Priority Under Section 507(a)? (Endnote 15)

If the claim is entitled to **priority** designation under the **Bankruptcy Code**, indicate that here (for example, wages, salaries, commissions, pension distributions, and taxes, among others) ([§ 507, Bankruptcy Code](#) and see [Practice Note, Order of Distribution in Bankruptcy: Priority Claims](#)). Consulting with in-house counsel or outside counsel is advisable if there are questions about whether priority designation is available.

Priority claims are typically limited by dollar amount and time frames before filing, so the portion of the claim not entitled to priority status should be indicated as an unsecured nonpriority claim. If the creditor is unsure whether a part of its claim is entitled to priority status, it should explicitly indicate on the proof of claim that it reserves its right to amend the claim to seek priority status. The creditor should be as specific as possible about which priority it may seek, the size of the claim, and the facts giving rise to the priority claim.

Part 3: Signature (Endnote 16)

The creditor or its agent signs and dates the proof of claim here. The individual signing the proof of claim affirms under penalty of perjury that the information included in the proof of claim is true and correct. A person intentionally filing a proof of claim that is false may be prosecuted.

The signature block explicitly provides an option for an attorney to sign the proof of claim on behalf of the creditor asserting the claim. At least one court has found that when an attorney signs a proof of claim it becomes a fact witness, resulting in waiver of the **work-product** and **attorney-client privilege** about the facts alleged within the claim (see *In re Rodriguez*, 2013 WL 2450925, at *7 (Bankr. S.D. Tex. June 5, 2013)).

Mortgage Proof of Claim Attachment

Part 1: Mortgage and Case Information (Endnote 17)

List the case number and debtor's name here. This information is found on the notice of bankruptcy and filings in the bankruptcy case. The creditor should use the exact name and number listed on those official documents.

Part 2: Total Debt Calculation (Endnotes 18-19)

Amounts Due (Endnote 18)

List the amounts due as of the date the bankruptcy case was filed here.

Total debt (Endnote 19)

This amount should match the total claim amount, described in endnote 7 (see [Drafting Note, Box 7: How Much is the Claim? \(Endnote 7\)](#)).

Part 3: Arrearage as of the Date of the Petition (Endnote 20-21)

Arrearages (Endnote 20)

List any arrears owed as of the date the bankruptcy case was filed here.

Total Prepetition Arrearage (Endnote 21)

This amount should match the amount necessary to cure the default as of the date the case was filed, described in endnote 12 (see [Drafting Note, Amount Necessary to Cure Any Defaults as of the Date of the Petition \(Endnote 12\)](#)).

Part 4: Monthly Mortgage Payment (Endnotes 22-23)

Principal and Interest (Endnote 22)

List the debtor's monthly mortgage payment amount here.

Monthly Escrow (Endnote 23)

If the loan is escrowed, an **escrow** statement as of the date the bankruptcy case was filed must be attached to and filed with the proof of claim. Confirm any PII and account numbers are redacted.

Part 5: Loan Payment History From First Date of Default (Endnote 24)

List the requested information from the date of the debtor's first default through the date the debtor filed the bankruptcy case here. Additional pages may be attached if necessary.

END DRAFTING NOTE

