

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA

IN RE: )  
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SAMUEL ED PETTWAY, ) Case No. 19-12599  
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Debtor. )

ORDER OVERRULING OBJECTION (DOC. 33) AND ALLOWING CLAIM AS FILED

This case is before the court on the debtor’s objection (doc. 33) to ECF claim number 3 of Jefferson Capital Systems LLC for an unsecured car deficiency balance. For the reasons discussed herein, the court overrules the objection.

Federal Rule of Bankruptcy Procedure 3001(c)(1) states in pertinent part: “Except for a [claim based on an open-end or revolving consumer credit agreement], when a claim . . . is based on a writing, a copy of the writing shall be filed with the proof of claim.” Rule 3001(e)(2), which applies to claims transferred after the filing of a proof of claim, requires “evidence of the transfer” to be filed; however, Rule 3001(e)(1), applicable to transfers before a claim is filed, does not specifically require “evidence of the transfer” to be filed. Although the decisions are split on the issue, Rule 3001(c)(1), when read in light of Rule 3001(e), arguably does not require a transferee of a claim to include with the proof of claim evidence of the assignment if no prior proof of claim has been filed. *See In re Porter*, No. 17-00678, 2018 WL 4443191, at \*2 (Bankr. D.D.C. Aug. 16, 2018).

Jefferson Capital attached a copy of the writing showing the car deficiency balance. Nonetheless, the debtor argues that the writing evidences a debt owed to Bridgecrest. He contends that the additional documentation attached to Jefferson Capital’s claim does not include a list of accounts that were assigned to Jefferson Capital.

The debtor has not disputed that he owes the deficiency balance or provided any evidence to the contrary (in which case the result herein might be different); he argues only that he cannot determine if Jefferson Capital is the correct owner of his account. The court is of the opinion that the Bankruptcy Rules only required Jefferson Capital to attach the writing evidencing the underlying debt, which it did. Jefferson Capital went a step further and attached a Rule 3001(c)(3)(A) statement showing that it purchased this account before the claim was filed, which is not required for a closed-end account such as the one at issue.<sup>1</sup> This was enough, in the court's view, for Jefferson Capital's claim to be entitled to prima facie validity under Rule 3001(f).<sup>2</sup> *See In re Walston*, 606 F. App'x 543, 546 (11th Cir. 2015). Because the debtor did not offer any evidence to rebut the prima facie validity, the court will allow the claim as filed.

The debtor argues that if this were a state court case, Jefferson Capital would not prevail without more evidence of the assignment. But the bankruptcy proof of claim process is different from a state court civil case where a creditor is suing a debtor on a debt. "The Bankruptcy Code provides streamlined and summary procedures to secure a prompt and effectual administration and settlement of the estate of a debtor." *See id.* at 547 (citation and quotation marks omitted). The initial burden of proof of a creditor in a state court case is thus understandably heavier than the proof of claim requirements set forth in Rule 3001. A state court may find that a creditor cannot meet its burden of proof to show that it owns a debt if it cannot admit into evidence the

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<sup>1</sup> Federal Rule of Bankruptcy Procedure 3001(c)(3)(A) provides that "[w]hen a claim is based on an open-end or revolving consumer credit agreement[.]" the claimant must file with its proof of claim a statement of account with certain information applicable to the account. The Rule expressly anticipates the possibility that the claim was assigned by requiring the creditor to provide "the name of the entity from whom the creditor purchased the account" along with other information specific to the account that allows the debtor to identify the account.

<sup>2</sup> "A proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim."

documents showing the transfer of the debt. This protects the debtor from being sued by multiple creditors on the same debt. But in the bankruptcy context, the debtor cannot be sued once the debt is discharged. And if multiple claims are filed for the same debt, the court can determine the correct owner of the debt through the claims objection or adversary processes.

To the extent the court has not specifically addressed any of the debtor's arguments, it has considered them and determined that they would not alter the result. The court thus overrules the debtor's objection (doc. 33) to claim no. 3 of Jefferson Capital and allows the claim as filed.

Dated: December 23, 2019

  
HENRY A. CALLAWAY  
CHIEF U.S. BANKRUPTCY JUDGE