

Fill in this information to identify the case:

Debtor 1 FOY ORTEGA ENTERPRISES, INC

Debtor 2  
(Spouse, if filing) \_\_\_\_\_

United States Bankruptcy Court for the: NORTHERN District of CALIFORNIA

Case number 16-40050

LM 10:04 AM  
**FILED**  
FEB 9 2016  
BANKRUPTCY COURT  
OAKLAND, CALIFORNIA

## Official Form 410

### Proof of Claim

12/15

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

1. Who is the current creditor?	<u>BRIAN SULLIVAN</u> Name of the current creditor (the person or entity to be paid for this claim)  Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent?  Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent?  <u>BRIAN SULLIVAN</u> Name <u>3201 WEST 84<sup>th</sup> PLACE</u> Number Street <u>LEAWOOD</u> <u>KS</u> <u>66206</u> City State ZIP Code  Contact phone <u>913-383-8454 (HOME)</u> Contact email <u>sullivan1664@att.net</u>	Where should payments to the creditor be sent? (if different)  _____ Name _____ Number Street _____ City State ZIP Code  Contact phone <u>816-812-3002 (CELL)</u> Contact email _____
Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____		
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____  Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

**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: \_\_\_\_\_

7. How much is the claim? \$ 12,853.49 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).

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.  
WINES ORDERED BUT FRAUDULENTLY NEVER DELIVERED.

9. Is all or part of the claim secured? ☒ No  
☐ Yes. The claim is secured by a lien on property.  
**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: \_\_\_\_\_

**Basis for perfection:** \_\_\_\_\_  
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: \$ \_\_\_\_\_

Amount of the claim that is secured: \$ \_\_\_\_\_

Amount of the claim that is unsecured: \$ \_\_\_\_\_ (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: \$ \_\_\_\_\_

Annual Interest Rate (when case was filed) \_\_\_\_\_ %

☐ 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. \$ \_\_\_\_\_

11. Is this claim subject to a right of setoff? ☒ No  
☐ Yes. Identify the property: \_\_\_\_\_

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

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

☒ No

☐ Yes. Check all that apply:

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

☐ Up to \$2,775\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

☐ Wages, salaries, or commissions (up to \$12,475\*) 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).

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

☐ Other. Specify subsection of 11 U.S.C. § 507(a)( ) that applies.

Amount entitled to priority

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\* Amounts are subject to adjustment on 4/01/16 and every 3 years after that for cases begun on or after the date of adjustment.

**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 01/29/2016  
MM / DD / YYYY

Signature

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

Name Brian John Sullivan  
First name Middle name Last name

Title

Company

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

Address

3201 WEST 84th PLACE  
Number Street

LEAWOOD

City

KS

State

66206

ZIP Code

Contact phone

913-383-8454/816-812-3002

Email

sullivan1664@att.net

# PROOF OF CLAIM (A)

Charge Date	Order #	Item Ordered	\$ Unit Price	# items	\$ Extended Amount
3/1/2012	375781	09 Pavie	\$279.99	6	\$1,679.94
10/3/2012	393345	2010 Chateaufneuf Mon Aieul, P. Usseglio	\$79.99	3	\$239.97
3/7/2013	406921	2010 Pontet Canet	\$189.99	3	\$569.97
4/13/2013	410125	2010 Pavie	\$219.99	6	\$1,319.94
6/15/2013	415693	2010 La Conseillante	\$129.99	3	\$389.97
6/22/2013	416218	2011 Corton Charlemagne, Jadot	\$79.99	4	\$319.96
7/6/2013	417380	2012 Cos d'Estouneul	\$79.99	4	\$319.96
7/6/2013	417380	2012 Leoville las Cases	\$79.99	4	\$319.96
7/6/2013	417380	2012 Troplong Mondot	\$59.99	4	\$239.96
7/8/2013	417605	2012 Troplong Mondot	\$59.99	6	\$359.94
7/14/2013	418157	2011 Cos d'Estouneul	\$69.99	3	\$209.97
7/20/2013	418959	2011 Chapelle Chambertin, Jadot	\$89.99	3	\$269.97
8/3/2013	420124	2012 Leoville las Cases	\$79.99	4	\$319.96
8/17/2013	421011	2011 Bonnes Mares, Jadot	\$129.99	3	\$389.97
8/17/2013	421011	2011 Clos St Denis, Jadot	\$129.99	3	\$389.97
8/23/2013	421407	2010 Barbaresco Rabaja, Bruno Rocca	\$69.99	3	\$209.97
8/24/2013	421656	2011 Pape Clement	\$55.00	4	\$220.00
9/21/2013	423479	07 Giusto di Notri, Tua Rita	\$39.99	4	\$159.96
9/28/2013	424198	2012 Cos d'Estouneul	\$79.99	2	\$159.98
10/19/2013	425644	2011 Pichon Lalande	\$59.99	4	\$239.96
11/23/2013	428700	2012 Beaucastel 1/2	\$24.99	12	\$299.88
12/26/2013	432045	Legras Brut Blanc de Blancs 1/2	\$18.99	6	\$113.94
1/7/2014	433377	2010 Lascombes	\$76.49	4	\$305.96
1/25/2014	435628	2012 Chateaufneuf Clos des Papes, Avril	\$69.99	4	\$279.96
1/25/2014	435628	2012 Beaucastel	\$49.99	4	\$199.96
3/22/2014	440049	2012 Troplong Mondot Magnum	\$129.99	3	\$389.97
4/19/2014	442948	2011 Corton Charlemagne, Jadot	\$82.49	4	\$329.97
4/19/2014	442948	2012 Pavie	\$134.99	4	\$539.97
4/22/2014	443218	2012 Chateaufneuf Cuvee Chaupin, Janasse	\$39.99	4	\$159.96
4/22/2014	443218	2012 Chateaufneuf Cuvee V.V., Janasse	\$59.99	4	\$239.96
5/10/2014	444758	2012 Chapelle Chambertin 1/2, Jadot	\$55.00	8	\$440.00
6/14/2014	447270	04 Le Brun-Servenay Brut Grand Cru Millesime	\$40.79	6	\$244.74
8/2/2014	451462	2012 Bellevue Mondot	\$79.99	6	\$479.94
8/23/2014	453092	2012 Angelus	\$125.00	4	\$500.00
Total					\$12,853.49

PROOF OF CLAIM (B)

AT&T Mail News Sports Finance Weather Entertainment AT&T Features Mobile U-verse att.com More En Español

WineDeliv... Search

Home Brian

Compose

Delete Move Spam More

Collapse All

## Inbox (6)

Drafts

Sent

Spam (5)

Trash (9)

## Smart Views

Important

Unread

Starred

People

Social

Travel

Shopping

Finance

## Folders (197)

Addresses (2)

Bordeaux 2009

Cloisters (3)

DennisWedding

Dumbass

FDAH Aug 2015

Fidelity (104)

Food

iTunes-Appl... (2)

Lawyer

LLBeanVISA

Misfit

MomDadStuff (2)

Notes

NOWA (82)

Retirement

StubHubTicketmaster

Synced Messages

Travel

Villanova

Vino (2)

West84th Q2 2010

WineDeliveries

## &gt; Recent

## Account overview (11)

Whitney Jacobson <whitney@premiercru.net>  
 To sullivan1664@att.net

10/26/15 at 7:05 PM

Hello Brian,

I was able to have the sales manager take a look at your account, and here is what we were able to come up with. Please remember that these are estimate based on the available information, and may vary.

To start, I do apologize, earlier on the phone I mentioned that we had shipped the Barde Haut Magnums. That was an error, we shipped the Stag's Leap today.

Here are the items that I have a estimated arrivals for:

08/17/2013	0000421011	46773	2011 Bonnes Mares, Jadot	\$129.99	3	winter 2015-16
07/20/2013	0000418959	46768	2011 Chapelle Chambertin, Jadot	\$89.99	3	winter 2015-16
08/17/2013	0000421011	47305	2011 Clos St Denis, Jadot	\$129.99	3	winter 2015-16
06/22/2013	0000416218	46777	2011 Corton Charlemagne, Jadot	\$79.99	4	winter 2015-16
04/19/2014	0000442948	46777	2011 Corton Charlemagne, Jadot	\$82.49	4	winter 2015-16
10/03/2012	0000393345	44970	2010 Chateauneuf Mon Aieul, P. Usseglio	\$79.99	3	winter 2015-16
12/26/2013	0000432045	48626	Legras Brut Blanc de Blancs 1/2	\$18.99	6	spring 2016
05/10/2014	0000444758	50024	2012 Chapelle Chambertin 1/2, Jadot	\$55.00	8	spring 2016
08/23/2013	0000421407	48276	2010 Barbaresco Rabaja, Bruno Rocca	\$69.99	3	spring 2016
01/25/2014	0000435628	49307	2012 Chateauneuf Clos des Papes, Avril	\$69.99	4	spring 2016
01/25/2014	0000435628	49043	2012 Beaucastel	\$49.99	4	spring 2016
11/23/2013	0000428700	49044	2012 Beaucastel 1/2	\$24.99	12	spring 2016
04/22/2014	0000443218	49922	2012 Chateauneuf Cuvee Chaupin, Janasse	\$39.99	4	spring 2016
04/22/2014	0000443218	49923	2012 Chateauneuf Cuvee V.V., Janasse	\$59.99	4	spring 2016

The Bordeaux items look like this as best as I can tell:

06/15/2013	0000415693	44080	2010 La Conseillante	\$129.99	3	spring 2016
01/07/2014	0000433377	48813	2010 Lascombes	\$76.49	4	spring 2016
03/01/2012	0000375781	41687	09 Pavie	\$279.99	6	spring 2016
04/13/2013	0000410125	44203	2010 Pavie	\$219.99	6	spring 2016
03/07/2013	0000406921	43864	2010 Pontet Canet	\$189.99	3	spring 2016
08/23/2014	0000453092	49179	2012 Angelus	\$125.00	4	fall 2016
08/02/2014	0000451462	49181	2012 Bellevue Mondot	\$79.99	6	fall 2016
07/14/2013	0000418157	46049	2011 Cos d'Estournel	\$69.99	3	fall 2016
07/06/2013	0000417380	47895	2012 Cos d'Estournel	\$79.99	4	fall 2016
09/28/2013	0000424198	47895	2012 Cos d'Estournel	\$79.99	2	fall 2016
07/06/2013	0000417380	47898	2012 Leoville las Cases	\$79.99	4	fall 2016
08/03/2013	0000420124	47898	2012 Leoville las Cases	\$79.99	4	fall 2016
08/24/2013	0000421656	46067	2011 Pape Clement	\$55.00	4	fall 2016
04/19/2014	0000442948	49180	2012 Pavie	\$134.99	4	fall 2016
10/19/2013	0000425644	46070	2011 Pichon Lalande	\$59.99	4	fall 2016
07/06/2013	0000417380	47890	2012 Troplong Mondot	\$59.99	4	fall 2016
07/08/2013	0000417605	47890	2012 Troplong Mondot	\$59.99	6	fall 2016
03/22/2014	0000440049	49739	2012 Troplong Mondot Magnum	\$129.99	3	fall 2016

A few items I see purchase orders for, but don't have an eta for yet:

09/21/2013	0000423479	41362	07 Giusto di Notri, Tua Rita	\$39.99	4
06/14/2014	0000447270	49723	04 Le Brun-Servenay Brut Grand Cru Millesime	\$40.79	6

Please let me know if you have any questions,

Whitney Jacobson  
 Premier Cru - the world's finest wines  
 1011 University Avenue  
 Berkeley, CA 94710  
 phone (510) 644-9463 ext. 17  
 whitney@premiercru.net

NOTE: THIS EMAIL SUMMARY  
 OF UNDELIVERED WINES  
 SUPPLIED BY PREMIER CRU  
 10/26/15

# PROOF OF CLAIM (C)

Debtor **Fox Ortega Enterprises, Inc.**  
Name

Case number (if known)

3.899 Nonpriority creditor's name and mailing address  
**Brian Spindler**  
**7680 Dryer Road**  
**Victor, NY 14564**

As of the petition filing date, the claim is:

**\$2,502.00**

Check all that apply.

- ☐ Contingent  
☐ Unliquidated  
☐ Disputed

Basis for the claim:

Date or dates debt was incurred

Last 4 digits of account number

Is the claim subject to offset?

- ☒ No  
☐ Yes

3.900 Nonpriority creditor's name and mailing address  
**Brian Steixner**  
**101 Wesley Road**  
**Ocean City, NJ 08226**

As of the petition filing date, the claim is:

**\$479.00**

Check all that apply.

- ☐ Contingent  
☐ Unliquidated  
☐ Disputed

Basis for the claim:

Date or dates debt was incurred

Last 4 digits of account number

Is the claim subject to offset?

- ☒ No  
☐ Yes

3.901 Nonpriority creditor's name and mailing address  
**Brian Su**  
**640 Goodhill Rd**  
**Kentfield, CA 94904**

As of the petition filing date, the claim is:

**\$574.00**

Check all that apply.

- ☐ Contingent  
☐ Unliquidated  
☐ Disputed

Basis for the claim:

Date or dates debt was incurred

Last 4 digits of account number

Is the claim subject to offset?

- ☒ No  
☐ Yes

3.902 Nonpriority creditor's name and mailing address  
**Brian Sullivan**  
**3201 West 84th Place**  
**Leawood, KS 66206**

As of the petition filing date, the claim is:

**\$12,698.00**

Check all that apply.

- ☐ Contingent  
☐ Unliquidated  
☐ Disputed

Basis for the claim:

Date or dates debt was incurred

Last 4 digits of account number

Is the claim subject to offset?

- ☒ No  
☐ Yes