

Fill in this information to identify the case:

Debtor 1 Fox Ortega Enterprises, Inc.

Debtor 2 _____
(Spouse, if filing)

United States Bankruptcy Court for the: Northern District of California

Case number 16-40050

LM 10:59a.m
FILED
FEB 19 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>Joel F. Citron</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>Joel F. Citron</u> Name <u>3420 Ocean Park Blvd, Ste 3030</u> Number Street <u>Santa Monica CA 90405</u> City State ZIP Code Contact phone <u>310-450-6695</u> Contact email <u>joel.citron@citronlaw.com</u> Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	Where should payments to the creditor be sent? (if different) _____ Name _____ Number Street _____ City State ZIP Code Contact phone _____ Contact email _____
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? \$ 8,949.93 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.
Goods sold but not received

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)?

☒ No

☐ Yes. Check all that apply:

Amount entitled to priority

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

☐ 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.

\$ _____

* 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 01/21/2016
MM / DD / YYYY

Signature

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

Name

JOEL FREDRICK CITRON
First name Middle name Last name

Title

Company

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

Address

3420 Ocean Park Blvd., Ste. 3030
Number Street

Santa Monica
City

CA
State

90405
ZIP Code

Contact phone

310-450-6695

Email

joel.citron@citronlaw.com

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ORDER DETAILS

Order No.: SO-0000316359

Order Date.: Apr 20, 2009

Status: Open

PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2008 Lafite Rothschild, 750 ml	12	0	12	0	\$209.99	\$2,519.88

Subtotal: \$2,519.88

Tax: \$245.69

Total: \$2,765.57

SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2008 Lafite Rothschild, 750 ml	12	0	12

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Premier Cru

1011 University Ave

Berkeley, CA 94710

[Click here for directions](#)

Store Hours

Monday-Friday: 10am-6pm (PST)

Saturday: 10am-5pm (PST)

Sunday: Closed

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JOEL F. CITRON
THOMAS H. CITRON
KATHERINE A. TATIKIAN
JACQUELINE L. SHULMAN
JAMES C. LUMSDEN
PALOMA CARRERO
SAMUEL A. MANN

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ATTORNEYS AT LAW
3420 OCEAN PARK BOULEVARD
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SANTA MONICA, CALIFORNIA 90405
TELEPHONE (310) 450-6695
FACSIMILE (310) 450-3851
WWW.CITRONLAW.COM

November 18, 2015

Via Facsimile

Fax No. (510) 547-5405
Premier Cru
1011 University Avenue
Berkley, CA 94710

Dear Tony:

This letter shall confirm our conversation on November 17, 2015 at which time we confirmed our understanding regarding the resolution of my outstanding account with Premier Cru.

As you know, in 2009, I purchased one case of 2008 Lafite and one case of 2008 Pichon Lalande. I spoke with James on multiple occasions throughout the years, and each time he assured me that the wines would be delivered within the next month or two. Recently, the 2008 Pichon Lalande arrived and I had it picked up at Premier Cru by son-in-law who lives in San Francisco.

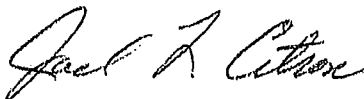
Based upon the fact that the 2008 Lafite is not presently in stock and Premier Cru could not tell me when I might receive it, we agreed to the following:

1. Premier Cru will reimburse me the cost of the 2008 LaFite, including the tax in a check in the amount of \$2,765.50. Per our conversation, you requested the check on October 19, 2015. It is my understanding that the check will be sent to me and arrive prior to November 20, 2015;
2. Premier Cru has issued me a credit memo in the amount of \$6,184.43 to be used at the store.

Thank you for your assistance.

Very truly yours,

CITRON & CITRON



JOEL F. CITRON

JFC/ss



Credit Memo

1011 University Avenue
Berkeley, CA 94710
(510) 644-9463 FAX (510) 547-5405

Page: 1

Number: 0000338094
Date: 10/27/2015
Salesperson:
Customer: 38015

Sold To	Ship To
Joel Citron 3420 Ocean Park Blvd Suite 3030 Santa Monica, CA 90405 USA	Joel Citron 3420 Ocean Park Blvd Suite 3030 Santa Monica, CA 90405 USA

Customer P.O.	Ship Via	F.O.B	Terms	
	TBD	PRE		
Item	Description	Qty Shipped	Price	Amount
	Upgrade 08Lafite 39926 so316359 CM338049	1.00	6,184.43	6,184.43
Payment/Credit from Document: CM338094 -CR	(6,184.43)			
		Subtotal	6,184.43	
		Freight	0.00	
		Sales Tax	0.00	
		Trade Discount	0.00	
		Payment/Credit Amount	-6,184.43	
		Balance	0.00	

Contact: Joel Citron

Joel Citron

From: Mark von Treskow [mvontreskow@gmail.com]
Sent: Wednesday, June 25, 2014 6:43 PM
To: Joel Citron
Cc: von Treskow, Katy
Subject: Re: Premier Cru Pickup and Backorder

You got it, Joel!

I have some cured meats I need to bring over there as well. ;)

On Jun 25, 2014, at 6:17 PM, "Joel Citron" <joel.citron@citronlaw.com> wrote:

I called Premier Cru and told them you would be picking up my case of 2009 Pichon Lalande Bordeaux...do you mind picking it up and putting in your "cooler?"

Joel F. Citron, Esq.

Citron & Citron
 3420 Ocean Park Blvd., Ste. 3030
 Santa Monica, CA 90405
 (310) 450-6695

joel.citron@citronlaw.com

From: james@premiercru.net [mailto:james@premiercru.net]
Sent: Wednesday, June 25, 2014 1:16 PM
To: joel.citron@citronlaw.com
Subject: Premier Cru Pickup and Backorder

Hello Joel,

As per our conversation today, I have scheduled your in stock case to be pulled from the warehouse and staged for pickup at the store by your son in law. That case will be on our customer pickup shelves by tomorrow Thursday 6-26. Anytime tomorrow or thereafter that he comes by during store hours, this case will be waiting for him. Store hours are 10-6 M-F, 10-5 Saturday, closed Sunday. The address of the store is listed in my footer below.

Next, you still have this wine remaining on your backorder, that has not gotten here yet:

12 x 39926 08 Lafite Rothschild @ \$209.99 from SO# 0000316359

Yes these 2008 high end Bordeaux have taken forever to get here, and we do thank you for your patience. As we discussed, we are prepared to offer you a refund to a store Credit if you do not want to wait any longer for these. Recognizing that the wine has accrued in value in the marketplace since we sold it to you (although even back then we sold it well below the going price for the wine), we are prepared to offer you a 100% upgrade over the amount you paid for the wine, if refunded to a store Credit.

Store Credit never expires, and would automatically be used against your future orders, once issued. If you chose bottles listed as IN STOCK, those could of course ship out (or be picked up) whenever you chose to schedule it. You will find all our inventory listed on the website at www.premiercru.net, and you may wish to peruse it. Each wine on the website is listed as either IN STOCK or PRE-ARRIVAL. Some pre-arrivals may be coming in a few weeks, some in a few years, depending on the wine. If you are interested in a specific wine listed as pre-arrival, I may be able to enlighten you on its likely arrival timeframe. Because store Credit never expires, you do not have to use it immediately. We are constantly purchasing and offering new wines, so you could pick and choose over time if you wish.

Of course you are also welcome to keep the Lafite on your backorder. However the Credit may be a way to leverage your previous purchase into more immediate gratification, and at a handsome upgrade over what you paid. Let me know if you want to move forward with that Credit and I will set things in motion here. Let me know if you do see something that you want and I can hold that for you pending issuance of the Credit, so it does not disappear or increase in price.

Thank you again for your business, and your patience.

Regards,

James Gillerman

=====

James Gillerman
PREMIER CRU
 1011 University Avenue
 Berkeley, CA 94710 USA
 Ph: 510-644-WINE (510-644-9463)
 Fax: 510-647-3833
 Email: james@premiercru.net
 Web: www.premiercru.net

No virus found in this message.

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Version: 2013.0.3485 / Virus Database: 3955/7742 - Release Date: 06/25/14

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