

Fill in this information to identify the case:

Debtor 1 Fox Ortega Enterprises, Inc.
Debtor 2 _____
(Spouse, if filing)
United States Bankruptcy Court Northern District of California
Case number: 16-40050

FILED
U.S. Bankruptcy Court
Northern District of California
3/1/2016
Edward J. Emmons, Clerk

**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>Tom Nicholson</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>Tom Nicholson</u> Name <u>325 West 84th Street</u> <u>New York, NY 10024</u> Contact phone <u>646-752-2912</u> Contact email <u>tnicholson@nny.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 _____ 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?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____
7. How much is the claim?	<div style="display: flex; justify-content: space-between;"><div>\$ <u>142.18</u></div><div>Does this amount include interest or other charges? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).</div></div>
8. What is the basis of the claim?	<p>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 healthcare information.</p> <p>March 12, 2012 purchased 3 bottles of 2009 Beaune 1er Cru 150th Anniversary Cuvee, Jadot – never received</p> <p>_____</p>
9. Is all or part of the claim secured?	<div><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property.</div> <div>Nature of property: <input type="checkbox"/> Real estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i>. <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____</div> <div>Basis for perfection: _____</div> <div>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.)</div> <div><div>Value of property:</div><div>\$ _____</div><div>Amount of the claim that is secured:</div><div>\$ _____</div><div>Amount of the claim that is unsecured:</div><div>\$ _____</div><div style="text-align: right;">(The sum of the secured and unsecured amounts should match the amount in line 7.)</div></div> <div><div>Amount necessary to cure any default as of the date of the petition:</div><div>\$ _____</div><div>Annual Interest Rate (when case was filed) _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable</div></div>
10. Is this claim based on a lease?	<div><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____</div>
11. Is this claim subject to a right of setoff?	<div><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____</div>

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. <i>Check all that apply.</i>	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.	<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> 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). <input type="checkbox"/> 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). <input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). <input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). <input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)(<u> </u>) that applies	\$ _____ \$ _____ \$ _____ \$ _____ \$ _____ \$ _____
* Amounts are subject to adjustment on 4/1/16 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 3/1/2016
MM / DD / YYYY

/s/ Tom Nicholson

Signature

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

Name	<u>Tom Nicholson</u>		
	First name	Middle name	Last name
Title	_____		
Company	<u>Nicholson NY LLC / ARC Fund</u>		
Address	Identify the corporate servicer as the company if the authorized agent is a servicer		
	<u>325 West 84th Street</u>		
	Number Street		
	<u>New York, NY 10024</u>		
	City State ZIP Code		
Contact phone	<u>6467522912</u>	Email	_____

Tom Nicholson - Premier Cru		Amount owed	
Purchase Price		\$116.97	
	Interest 5%		
Year 1		\$122.82	
	Interest 5%		
Year 2		\$128.96	
	Interest 5%		
Year 3		\$135.41	
	Interest 5%		
Year 4 TOTAL OWED w/ Interest		\$142.18	

PREMIER CRU

1011 University Avenue
Berkeley, CA 94710

(510) 644-9463 FAX (510) 647-3833

Sales Order

Page: 1

Order Number: 0000376771

Order Date: 3/12/2012

Web Order No: 93381

Salesperson: MR

Customer: 42704

Customer PO:

Sold To

Tim Nicholson
325 West 84th Street
New York, NY 10024 USA

Ship To

Tim Nicholson
325 West 84th Street
New York, NY 10024 USA

Contact: Tim Nicholson
Phone: (212) 496-7667

This order has been paid by Visa - Thank You!

Item	Ordered	Quantity Shipped	Unit Price	Amount
45756 09 Beaune 1er Cru 150th Anniversary Cuvee, Jadot	3.00	0.00	38.99	116.97

Payments: **Case 16-40050 Claim 1082 Filed 03/01/16 Desc Attachment 1 Page 2 of 6**

Net Order: 116.97

Freight: 0.00

Sales Tax: 0.00

3/12/2012 VKME3F03249D *****5004 116.97

3/1/2016

Gmail - Premier Cru Order Acknowledgement



Tom Nicholson <tjnicholson@gmail.com>

Premier Cru Order Acknowledgement

6 messages

Premier Cru <shipping@premiercru.net>
To: tnicholson@nny.com

Mon, Mar 12, 2012 at 7:29 PM

Thank you for your order!

We have received your order request SO-0000376771-93381.

qty	item	Wine	price	ext	status
3	45756	2009 Beaune 1er Cru 150th Anniversary Cuvee,	38.99	116.97	pre-arrival

Bottles : 3

Subtotal: 116.97

Shipping: 13.00

Tax : 0.00

Total : 129.97

Please note:

We do not ship automatically upon order.

If you wish to arrange shipping, please contact us after receiving your order confirmation and we will schedule it.

We do not charge for shipping until your bottles ship out.

If you have any questions, please email us at info@premiercru.net or call us at [510-644-9463](tel:510-644-9463).

Premier Cru
1011 University Avenue
Berkeley, CA 94710
[\(510\) 644-9463](tel:510-644-9463)

Tom Nicholson <tnicholson@nny.com>
To: Premier Cru <shipping@premiercru.net>

Mon, Feb 11, 2013 at 5:19 PM

Can you tell me when this and other pre-arrival orders can be expected?

Thanks.

[Quoted text hidden]

--

3/1/2016

Gmail - Premier Cru Order Acknowledgement

We should expect to see the 09 Beaune 1er Cru 150th Anniversary Cuvee arrive by early summer. We will send you an email notification upon arrival. Please let me know if there is anything else I can help you with.

Thank you,

Matt Cormier
Premier Cru
1011 University Ave.
Berkeley, CA 94710
[510-644-9463](tel:510-644-9463) ex11
matt@premiercru.net

From: tjnicholson@gmail.com [mailto:tjnicholson@gmail.com] **On Behalf Of** Tom Nicholson
Sent: Monday, February 11, 2013 2:30 PM
To: Premier Cru
Subject: Re: Premier Cru Order Acknowledgement

Can you tell me when this and other pre-arrival orders can be expected?

Thanks.

On Mon, Mar 12, 2012 at 7:29 PM, Premier Cru <shipping@premiercru.net> wrote:
[Quoted text hidden]

--

Tom Nicholson
Nicholson | NY
Main +1 [212.721.8414](tel:212.721.8414)
Cell +1 [646.752.2912](tel:646.752.2912)

Tom Nicholson <tnicholson@nny.com>
To: Premier Cru <sales@premiercru.net>

Mon, Feb 11, 2013 at 6:20 PM

Thanks Matt. Is it similar for the others I've ordered?

If so, can you tell me why they are available in stock at some retailers, while others have such a long wait?

[Quoted text hidden]

Premier Cru <sales@premiercru.net>
To: Tom Nicholson <tnicholson@nny.com>

Mon, Feb 11, 2013 at 6:34 PM

Tom,

We import all of these wines ourselves, so that is why it takes us a little bit longer than other retailers.

Thank you,

Case 16-40050 Claim 1082 Filed 03/01/16 Desc Attachment 1 Page 4 of 6

3/1/2016

Gmail - Premier Cru Order Acknowledgement

From: tjnicholson@gmail.com [mailto:tjnicholson@gmail.com] **On Behalf Of** Tom Nicholson
Sent: Monday, February 11, 2013 3:31 PM
To: Premier Cru
Subject: Re: Premier Cru Order Acknowledgement

Thanks Matt. Is it similar for the others I've ordered?

If so, can you tell me why they are available in stock at some retailers, while others have such a long wait?

On Mon, Feb 11, 2013 at 5:34 PM, Premier Cru <sales@premiercru.net> wrote:

[Quoted text hidden]

[Quoted text hidden]

Tom Nicholson <tnicholson@nny.com>
To: Premier Cru <sales@premiercru.net>

Mon, Feb 11, 2013 at 6:44 PM

Got it. Thanks.
[Quoted text hidden]

Order Details

[My Account](#)
[Hi Tim](#)
[Log Out](#)
[Shopping Cart](#)
[wine, region, varietal, producer](#)
[SEARCH](#)
[MY ACCOUNT](#)
[EDIT PROFILE](#)
[ADDRESS BOOK](#)
[BILLING INFORMATION](#)

ORDER DETAILS

Order No.: SO-0000376771

Order Date.: Mar 12, 2012

Status: Open

PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2009 Beaune 1er Cru 150th Anniversary Cuvee, Jadot, 750 ml	3	0	3	3	\$38.99	\$116.97

Subtotal: \$116.97

Tax: \$0.00

Total: \$116.97

SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2009 Beaune 1er Cru 150th Anniversary Cuvee, Jadot, 750 ml	3	0	3

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About Us

We source the world's finest wines at extremely competitive prices to provide exceptional experiences for collectors, connoisseurs, and everyday wine lovers.

Become a fan!

Premier Cru

1011 University Ave
Berkeley, CA 94710

[Click here for directions](#)

Store Hours

Tuesday-Friday: 10am-6pm

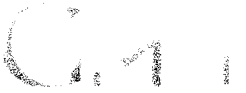
Saturday: 10am-5pm

Sunday: Closed

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3/1/2016

Gmail - Sunday Special: 40% Off Selected Wines!!



Tom Nicholson <tjnicholson@gmail.com>

Sunday Special: 40% Off Selected Wines!!

1 message

Premier Cru <sales@premiercru.net>

Reply-To: sales@premiercru.net

To: tnicholson@nny.com

Sun, Nov 29, 2015 at 5:05 PM

<https://www.estrackcontact.com/~/media/press-releases/2015/11/29/https://www.premiercru.net/en/sep-2015-40-off>



N.B.

Valid Only on Orders Placed This Sunday & Monday (November 29-30, 2015)

A 40% Discount Will Be Taken Off The Prices Listed Below. Discount Will Be Reflected On Your Completed Sales Order That We Email To You

FYI. Just wanted to make you aware if you're not, that Premier Cru was still offering Pre-arrival Futures at steep discounts in Late Nov. 2015 while I assume they knew they were under investigation.

PRE-ARRIVAL

French Champagne

Billecart Salmon Extra Brut (pre-arrival) 59.99

Clicquot Brut (pre-arrival) 35.99

87 points Tanzer: "Bright, pale color. Initially reticent nose opened to reveal lemon, apple, mandarin orange, minerals and fresh herbs. Dry, bright and frothy, but with only moderate concentration and depth of flavor. Seems rather light-bodied for a wine from this house, but still a major improvement over a bottle I tasted last fall. Finishes with notes of apple skin and stony minerality."

2002 Dom Ruinart Rose (pre-arrival) 279.99

96+ points Geronzi: "A mysterious, beguiling beauty, the 2002 Dom Ruinart Rosé boasts fabulous intensity and pure resonance. Tangerine, exotic spices, mint, crushed rose petals and sweet red berries blossom in the glass. Still, my impression is that the 2002 is holding