

Fill in this information to identify the case:

Debtor 1 fox Ortega Enterprises, Inc.- Premier Cru

Debtor 2 _____
(Spouse, if filing)

United States Bankruptcy Court for the: Northern District of California

Case number 16-40050

FILED

FEB 29 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>David Barber</u> <small>Name of the current creditor (the person or entity to be paid for this claim)</small> <small>Other names the creditor used with the debtor</small> _____	
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? <small>Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)</small>	Where should notices to the creditor be sent? <u>David Barber</u> <small>Name</small> <u>16085 Greenwood Lane</u> <small>Number Street</small> <u>Monte Sereno</u> <u>CA</u> <u>95030</u> <small>City State ZIP Code</small> <small>Contact phone</small> <u>408-569-0653</u> <small>Contact email</small> <u>davidsbarber@gmail.com</u>	Where should payments to the creditor be sent? (if different) <small>Name</small> _____ <small>Number Street</small> _____ <small>City State ZIP Code</small> _____ <small>Contact phone</small> _____ <small>Contact email</small> _____
<small>Uniform claim identifier for electronic payments in chapter 13 (if you use one):</small> _____		
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 _____ <small>MM / DD / YYYY</small>
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? \$ 7,431.50. 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).

SEE ATTACHED EMAIL FROM PREMIER CNU - 8100.34 WITH TAX

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 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)?

☒ 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 02/02/2016

MM / DD / YYYY

Signature



DAVID BARBER

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

Name

David S. Barber

First name

Middle name

Last name

Title

Company

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

Address

16085 Greenwood Lane

Number Street

Monte Sereno

City

CA

State

95030

ZIP Code

Contact phone

408-569-0653

Email davidsbarber@gmail.com

David Barber

Subject: FW: FW: Let's get this closed and move on

From: Whitney Jacobson [mailto:whitney@premiercru.net]

Sent: Wednesday, December 23, 2015 4:41 PM

To: David Barber

Subject: RE: Let's get this closed and move on

David,

I apologize for the delays in responding, we are trying our best to answer every email as fast as possible.

I see that we have shipped you 15 bottles yesterday that should arrive tomorrow. For the rest I will initialize the refund to have the check sent to the address on file, but I don't have, and will not have, an idea of when this will be mailed. Below is a breakdown of the refund according to my records, but the final total might change a bit once the accounting dept goes through everything. My sincere apologies for the massive inconvenience.

Whitney Jacobson

Premier Cru

08/09/2007	0000273732	36729	05 Nuits Damodes, Faiveley	\$79.95	2	\$159.90
02/19/2011	0000351051	41541	09 Calon Segur	\$79.99	4	\$319.96
02/17/2011	0000350971	41707	09 Cos d'Estournel	\$297.99	4	\$1,191.96
02/19/2011	0000351051	41606	09 Leoville Barton	\$89.99	4	\$359.96
07/02/2011	0000358765	44110	2010 Leoville las Cases	\$289.99	2	\$579.98
10/19/2010	0000344334	41633	09 Leoville Poyferre	\$139.99	6	\$839.94
02/17/2011	0000350971	41565	09 Lynch Bages	\$119.99	4	\$479.96
02/17/2011	0000350971	41631	09 Montrose	\$199.99	4	\$799.96
02/19/2011	0000351051	41687	09 Pavie	\$259.99	4	\$1,039.96
07/02/2011	0000358765	43932	2010 Pichon Baron	\$205.00	4	\$820.00
02/17/2011	0000350971	41531	09 Pontet Canet	\$134.99	4	\$539.96
11/27/2009	0000329160	39266	07 Chateaneuf Cuvee Chaupin, Janasse	\$99.99	2	\$199.98
02/12/2012	0000374423	41294	09 Guiraud	\$49.99	2	\$99.98
						\$7,431.50

est. total	\$8,100.34
------------	------------