

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
3/31/2016
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>Rick Cecala</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>Rick Cecala</u> Name <u>5727 N 41ST PLACE</u> <u>Phoenix, AZ 85018</u> Contact phone <u>6028520104</u> Contact email <u>rick.cecala@gmail.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>449.95</u></div><div>Does this amount include interest or other charges? <input checked="" type="checkbox"/> No <input 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).</p> <p>Limit disclosing information that is entitled to privacy, such as healthcare information.</p> <p>Goods sold, paid for, never delivered. See narrative and exhibits.</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>\$ _____ (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 3/31/2016
MM / DD / YYYY

/s/ Rick Cecala

Signature

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

Name Rick Cecala
First name Middle name Last name

Title _____

Company _____

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

5727 North 41st Place

Number Street

Phoenix, AZ 85018

City State ZIP Code

Contact phone 6028520104 Email rick.cecala@gmail.com

MY ACCOUNT

EDIT PROFILE

ADDRESS BOOK

BILLING INFORMATION

ORDER HISTORY

All Time

Sort By

Order No

GO

Order Number (Status)	Amount	Qty	Shipped	Remain	Avail	Date
SO-0000449781 (Closed)	\$170.97	3	3	0	0	7/17/14
SO-0000429313 (Open)	\$289.97	3	0	3	0	11/27/13
SO-0000420423 (Closed)	\$145.00	1	1	0	0	8/9/13
SO-0000406079 (Closed)	\$113.98	2	2	0	0	2/25/13
SO-0000395649 (Closed)	\$59.99	1	1	0	0	10/29/12
SO-0000395557 (Closed)	\$349.94	6	6	0	0	10/27/12
SO-0000394324 (Closed)	\$71.98	2	2	0	0	10/13/12
SO-0000393180 (Open)	\$630.90	10	8	2	0	9/29/12
SO-0000380582 (Closed)	\$679.94	6	6	0	0	4/27/12
SO-0000300441 (Closed)	\$439.96	4	4	0	0	7/28/08

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Company History

Our Staff

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Enter Wine

SEARCH

GET OUR NEWSLETTER

Enter Email

SUBSCRIBE

⊕ New | ⌵ | ↶ Reply | ⌵ | 🗑 Delete | 📁 Archive | Junk | ⌵ | Sweep | Move to ⌵ | Categories ⌵ | ...

↑ ↓ ✕ ↶ Undo

RE: orders



Whitney Jacobson

To: fred arfwoof <arfwoof@hotmail.com>; ⌵

↶ Reply | ⌵

Wed 12/30/2015 6:46 PM

Rick,

I see a credit memo was issued on 12/22 for your refund, meaning it has been processed by the accounting department and sent to the owner to be written and mailed. Unfortunately, I don't have the ability to get information on when exactly that would be mailed at this time.

Whitney

From: fred arfwoof [mailto:arfwoof@hotmail.com]

Sent: Tuesday, December 29, 2015 2:46 PM

To: Whitney Jacobson

Subject: orders

Hi Whitney,

I spoke with you on Dec 9 and you agreed to refund the amount I'd previously paid for undelivered wine from order nos. SO-0000429313 and SO-0000393180. I see that my order history now shows these orders as closed and the quantity ordered of the undelivered bottles as 0. Does this mean that a check has been issued? If not, when can I expect it?

Thanks for your help,

[Rick Cecala](#)

[Phoenix AZ](#)

[602 852-0104](#)

1. On September 29, 2012, I ordered ten bottles of wine from Premier Cru, for which my USAA Visa card was charged \$630.90 (Exhibit A). Eight bottles were eventually delivered but two bottles, Item 45000, for which I had paid a total of \$159.98, were not. I telephoned about their status and was told that shipment from Europe had been delayed.
2. On November 27, 2013, I ordered three bottles of wine from Premier Cru, for which my USAA Visa card was charged \$289.97 (Exhibit B).
3. As of December 9, 2015, these five bottles had not been delivered and were shown as outstanding on my Premier Cru order history (Exhibit C). On that date, I requested via email and telephone a refund for the five undelivered bottles and was told that my refund request would be submitted for processing (Exhibit D). I did not hear back from Premier Cru but noticed on December 22, 2015, that my online order history had been changed to show these orders as closed and the number of undelivered bottles as 0 (Exhibits E, F).
4. On December 29, 2015, I sent an email requesting a status update and on December 30, 2015, a Premier Cru employee advised me that “a credit memo was issued on 12/22 for your refund, meaning it has been processed by the accounting department and sent to the owner to be written and mailed. Unfortunately, I don't have the ability to get information on when exactly that would be mailed at this time.” (Exhibit G.)
5. I did not receive a refund. Sometime after January 8, 2016, I learned that on that date Premier Cru had filed a Chapter 7 Bankruptcy petition in the Northern District of California.

1. Through website portal as "Customer service question," ca 2:15p 9 Dec 2015:

I've bought wine from you for many, many years and never had a problem. However, I have two open orders currently, one of which is over 2 years old and the other over three years old. I haven't been able to reach anyone at PC by phone. At this point, I would like to be issued a refund for the undelivered wine (\$449.95 total). Can you please do so?

2. Talked to Whitney (x16 → VM *8 → x19 per ***** suggestion), 2:30p 9 Dec 2015: said they'd issue a refund check, will take a few weeks, email him at whitney@premiercru.net if taking too long.

PREMIER CRU

1011 University Avenue
Berkeley, CA 94710

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

Sales Order

Page: 1

Order Number: 0000393180

Order Date: 9/29/2012

Web Order No: 112309

Salesperson: MC

Customer: 6029970119

Customer PO:

Sold To	Ship To
Rick Cecala 5727 N 41ST PLACE Phoenix, AZ 85018 USA	Rick Cecala 5727 N 41ST PLACE Phoenix, AZ 85018 USA

Contact: Rick Cecala
Phone: (602) 852-0104

Item		Ordered	Quantity Shipped	Unit Price	Amount
44988	2010 Echezeaux, Jadot	1.00	0.00	119.99	119.99
45000	2010 Vosne Romanee Suchots, Jadot	2.00	0.00	79.99	159.98
46316	2010 Gevrey Cazetiers, Jadot	1.00	0.00	74.99	74.99
45721	2010 Beaune Clos des Ursules 1/2, Jadot	2.00	0.00	27.99	55.98
45736	2010 Gevrey Estournelles St Jacques 1/2, Jadot	2.00	0.00	39.99	79.98
45385	2010 Corton Greves, Jadot	2.00	0.00	69.99	139.98

				Net Order:	630.90
Payments: 630.90				Freight:	0.00
				Sales Tax:	0.00
9/29/2012	VRFE7ACE61AA		630.90		
Case 16-40050 Claim 1398 Filed 03/31/16 Desc Attachment 2 Page 1 of 1				USD	630.90

ORDER DETAILS

Order No.: SO-0000393180
Order Date.: Sep 29, 2012
Status: Closed

PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2010 Echezeaux, Jadot, 750 ml	1	1	0	0	\$119.99	\$119.99
2010 Vosne Romanee Suchots, Jadot, 750 ml	0	0	0	0	\$79.99	\$159.98
2010 Corton Greves, Jadot, 750 ml	2	2	0	0	\$69.99	\$139.98
2010 Beaune Clos des Ursules 1/2, Jadot, 375 ml	2	2	0	0	\$27.99	\$55.98
2010 Gevrey Estournelles St Jacques 1/2, Jadot, 375 ml	2	2	0	0	\$39.99	\$79.98
2010 Gevrey Cazetiers, Jadot, 750 ml	1	1	0	0	\$74.99	\$74.99

Subtotal: \$630.90
Tax: \$0.00
Total: \$630.90

SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2010 Echezeaux, Jadot, 750 ml	1	1	0
2010 Vosne Romanee Suchots, Jadot, 750 ml	0	0	0
2010 Corton Greves, Jadot, 750 ml	2	2	0
2010 Beaune Clos des Ursules 1/2, Jadot, 375 ml	2	2	0
2010 Gevrey Estournelles St Jacques 1/2, Jadot, 375 ml	2	2	0
2010 Gevrey Cazetiers, Jadot, 750 ml	1	1	0



My Account | Hi Rick | Log Out | Shopping Cart

wine, region, varietal, producer

SEARCH

BROWSE WINE FEATURED WINES ABOUT US RETAIL STORE LEARN ABOUT WINE

MY ACCOUNT

EDIT PROFILE

ADDRESS BOOK

BILLING INFORMATION

ORDER DETAILS

Order No.: SO-0000429313

Order Date.: Nov 27, 2013

Status: Closed

PURCHASE DETAILS

Wine	Qty	Shipped	Remain	Ready To Ship	Price/Bottle	Total Price
2012 Leoville las Cases, 750 ml	0	0	0	0	\$79.99	\$159.98
2006 Roederer Cristal, 750 ml	0	0	0	0	\$129.99	\$129.99

Subtotal: \$289.97

Tax: \$0.00

Total: \$289.97

SHIPPING DETAILS

Wine	Ordered	Shipped	Remain
2012 Leoville las Cases, 750 ml	0	0	0
2006 Roederer Cristal, 750 ml	0	0	0



1011 University Avenue
Berkeley, CA 94710

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

Sales Order

Page: 1

Order Number: 0000429313
Order Date: 11/27/2013
Web Order No: 138368
Salesperson:
Customer: 6029970119
Customer PO:

Sold To	Ship To
Rick Cecala 5727 N 41ST PLACE Phoenix, AZ 85018 USA	Rick Cecala 5727 N 41ST PLACE Phoenix, AZ 85018 USA

Contact: Rick Cecala
Phone: (602) 852-0104

Item		Ordered	Quantity Shipped	Unit Price	Amount
49087	06 Roederer Cristal	1.00	0.00	129.99	129.99
47898	2012 Leoville las Cases	2.00	0.00	79.99	159.98

Payments:		289.97	Net Order:	289.97
			Freight:	0.00
			Sales Tax:	0.00

11/29/2013	VQFEA2475A9D		289.97
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