

United States Bankruptcy Court
Eastern District of North Carolina

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A. Thomas Small
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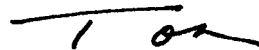
August 11, 2000

Mr. Peter G. McCabe, Secretary
Committee on Rules of Practice and Procedure
Administrative Office of the US Courts
One Columbus Circle, NE
Washington, DC 20544

Dear Peter,

Enclosed is a letter I received from Chief Bankruptcy Judge James A. Pusateri regarding an amendment to Bankruptcy Rule 2002. If there is not enough time to consider this at the September meeting it can be addressed at my first meeting in March.

Very truly yours,



A. Thomas Small

cc: Honorable Adrian G. Duplantier
Honorable James A. Pusateri
Patricia S. Ketchum

United States Bankruptcy Court
District of Kansas

215 United States Courthouse
444 South East Quincy Street
Topeka, Kansas 66683

James A. Pusateri
Chief Bankruptcy Judge

Telephone
(785) 295-2786

July 31, 2000

Honorable A. Thomas Small
United States Bankruptcy Judge
Eastern District of North Carolina
300 Fayetteville Street Mall
Century Station, Suite 220
Raleigh, North Carolina 27602


Dear Judge ~~Small~~:

As a the new chair of the Advisory Committee on Bankruptcy Rules of the Judicial Conference, I have enclosed a copy of a letter I have sent to Professor Morris regarding an amendment to Bankruptcy Rule 2002.

Very truly yours,



THE HONORABLE JAMES A. PUSATERI
CHIEF BANKRUPTCY JUDGE

United States Bankruptcy Court
District of Kansas

215 United States Courthouse
444 South East Quincy Street
Topeka, Kansas 66683

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Chief Bankruptcy Judge

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July 31, 2000

Professor Jeffrey W. Morris, Reporter
Advisory Committee on Bankruptcy Rules
University of Dayton School of Law
300 College Park
Dayton, Ohio 45469-2772

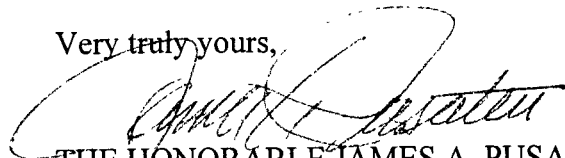
Dear Professor Morris:

A matter has recently come to my attention that seems to warrant an amendment to the Federal Rules of Bankruptcy Procedure. Currently, Rule 2002(a) requires various notices to be sent to "all creditors." Subdivision (h) provides that after the claims bar date has run in a chapter 7 case, the court may direct that notices under subdivision (a) be sent only to creditors that have filed claims or still have time to file them. The Advisory Committee Note (1983) explains that creditors who have not filed timely claims in a chapter 7 case are not entitled to share in the estate (with limited exceptions) and that the "elimination of notice to creditors who have no recognized stake in the estate may permit economies in time and expense." At one time, it was unclear whether a claim could be disallowed in a chapter 13 case on the ground it was not timely filed. Consequently, it was probably not appropriate then for Rule 2002(h) to apply in chapter 13 cases.

However, in 1994, Congress added subsection (9) to 11 U.S.C.A. §502(b) to provide that a late-filed claim must be disallowed if an objection is made to it. This provision applies in chapter 13 cases. One or more of the notices required under Rule 2002(a) concern events that occur in chapter 13 cases after the claims bar date has run. Now that late-filed claims are to be disallowed in chapter 13, the rationale for subdivision (h) of Rule 2002 appears to be applicable in chapter 13 as well as chapter 7. That is, once the claims bar date has passed, creditors who have not filed their claims have no recognized stake in the estate, so notice to them could normally be excused. While the time and expense of noticing such creditors may not be significant in the typical chapter 13 case, it would be in at least a few cases and would certainly be significant in the aggregate if such noticing were eliminated in most chapter 13 cases.

Please forward this suggestion to your committee. Thank you for your assistance.

Very truly yours,



THE HONORABLE JAMES A. PUSATERI,
CHIEF BANKRUPTCY JUDGE