



United States Bankruptcy Court
Western District of Wisconsin
P.O. Box 548
Madison, Wisconsin 53701

05-BK-D

(808) 264-5188

Chambers of
Robert A. Martin
Chief Bankruptcy Judge

October 25, 2005

Committee on Rules of Practice and Procedure
Thurgood Marshall Federal Judiciary Building
Washington, D.C. 20544

Re: Rules Committee Letter Addressing Notices

To Whom it May Concern:

An issue recently arose in this court concerning addressing notices pursuant to Bankruptcy Rule 2002. Rule 2002(g)(1) requires that notice "shall be addressed as such entity or an authorized agent has directed in its *last request* filed in the particular case." (emphasis added)

**Rule 2002 Notices to Creditors, Equity Security Holders,
United States, and United States Trustee**

(g) Addressing notices

(1) Notices required to be mailed under Rule 2002 to a creditor, indenture trustee, or equity security holder shall be addressed as such entity or an authorized agent has directed in its last request filed in the particular case. For the purposes of this subdivision--

(A) a proof of claim filed by a creditor or indenture trustee that designates a mailing address constitutes a filed request to mail notices to that address, unless a notice of no dividend has been given under Rule 2002(e) and a later notice of possible dividend under Rule 3002(c)(5) has not been given; and

(B) a proof of interest filed by an equity security holder that designates a mailing address constitutes a filed request to mail notices to that address.

...

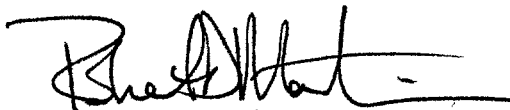
Debtors may experience problems in complying with this rule if a creditor, on the same day, files a proof of claim listing one address and a separate notice requesting service listing a different address. The problem is that when a creditor files a proof of claim CM/ECF does not list a time it is filed, viewing a proof of claim in CM/ECF only allows the viewer to see the date

on which the claim was filed. Therefore, if a proof of claim and a notice requesting service are filed on the same day, and each bears a different address, it is impossible to see which was the "last request" filed in the case.

The debtor would only be able to ascertain this information by calling the court, however, court staff is only able to discover which was filed later by contacting tech staff. This seems to be an overly burdensome process, since Rule 2002 requires notice to the "last filed" address, there should be some way for the debtor to easily discover which document was filed last. A solution may be to submit a modification request, asking that proof of claims state a time they were filed. Or, where creditors submit two or more addresses on the same day, debtors could be required to notice the address on the proof of claim as well as the address on the last filed notice request. In any case, the current system is unfair to debtors, it allows the creditor too much leeway to claim that the debtor did not properly notice them.



Marcia M. Anderson
Clerk of Court



Robert D. Martin
United States Bankruptcy Judge