

**United States Bankruptcy Court
District of Minnesota**

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Tricia Pepin
Clerk of Court

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March 10, 2023

Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE
Washington, D.C. 20544
Sent by email to: RulesCommittee_Secretary@ao.uscourts.gov

Re: Interplay of Fed. R. Bankr. P. 1005 and 2002(n)

Dear Committee Members:

I write on behalf of myself and my bankruptcy colleagues who are also listed on this letter concerning the interplay of two Federal Rules of Bankruptcy Procedure, 1005 and 2002(n).

Rule 2002. Notices to Creditors, Equity Security Holders, Administrators in Foreign Proceedings, Persons Against Whom Provisional Relief is Sought in Ancillary and Other Cross-Border Cases, United States, and United States Trustee

(n) Caption. The caption of every notice given under this rule shall comply with Rule 1005. The caption of every notice required to be given by the debtor to a creditor shall include the information required to be in the notice by §342(c) of the Code.

Rule 1005. Caption of Petition

The caption of a petition commencing a case under the Code shall contain the name of the court, the title of the case, and the docket number. The title of the case shall include the following

information about the debtor: name, employer identification number, last four digits of the social-security number or individual debtor's taxpayer-identification number, any other federal taxpayer-identification number, and all other names used within eight years before filing the petition. If the petition is not filed by the debtor, it shall include all names used by the debtor which are known to the petitioners.

The caption requirements in Rule 1005 are substantial and can add a significant amount of length, and therefore cost, to a Rule 2002 notice. Despite what the current Rule 2002(n) says, the general long-standing practice for the bankruptcy courts in the Eighth Circuit is to only provide the Rule 1005 caption requirements on the Notice of Bankruptcy Case, commonly referred to as the meeting of creditors notice, by using Official Forms 309A-309I.¹

After the meeting of creditors notice is sent, however, the clerk's offices and most attorneys use a shorter caption for other notices given under Rule 2002. This shorter caption generally follows Official Form 416B. Using a shorter caption for all Rule 2002 notices, except for the meeting of creditors notice, has been sufficient for creditors and other interested parties to identify the bankruptcy matter and fully participate in the case. Further, it would greatly reduce the cost to the Judiciary and all litigants if the Rule 2002 caption requirements were reduced to match Official Form 416B, except for the meeting of creditors notice.

We recommend that Rule 2002(n) be amended so the entirety of the Rule 1005 caption information applies to only the meeting of creditors notice (conforming with Official Forms 309A-309I or Official Form 416A). We further recommend that the caption requirements for all other notices issued under Rule 2002 be limited to the name of the court, title of the case, case number, chapter, and debtor's name (conforming with Official Form 416B).

Sincerely,

Tricia Pepin
Clerk of Court
U.S. Bankruptcy Court for the District of Minnesota

Concurrences:

Linda McCormack, Clerk of Court, U.S. Bankruptcy Court for the Eastern and Western Districts of Arkansas

¹ Please note that the U.S. Bankruptcy Court for the District of South Dakota has specific caption requirements in its local rules and the court follows those caption requirements for all 2002 notices. All other bankruptcy courts in the Eighth Circuit use a short caption, similar to Official Form 416B for all 2002 notices, except for the meeting of creditors notices.

Sharon K. Mullin, Clerk of Court, U.S. Bankruptcy Court for the Northern District of Iowa
Megan R. Weiss, Clerk of Court, U.S. Bankruptcy Court for the Southern District of Iowa
Dana C. McWay, Clerk of Court, U.S. Bankruptcy Court for the Eastern District of Missouri
Paige Wymore-Wynn, Court Executive, U.S. Bankruptcy Court for the Western District of Missouri
Eva Roeber, Clerk of Court, U.S. Bankruptcy Court for the District of Nebraska
Kay A. Melquist, Clerk of Court, U.S. Bankruptcy Court for the District of North Dakota
Frederick M. Entwistle, Clerk of Court, U.S. Bankruptcy Court for the District of South Dakota

Cc: Bankruptcy Clerks Advisory Group (BCAG) members