

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF TENNESSEE
701 BROADWAY
CUSTOMS HOUSE ROOM 200
NASHVILLE, TN 37203

12-BK-B

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February 3, 2012

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

Dear Mr. McCabe,

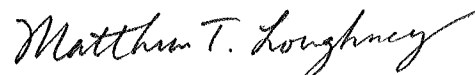
I am submitting this recommendation regarding the notice of entry of a confirmation order in chapter 13 cases on behalf of the Bankruptcy Noticing Working Group.

Federal Rule of Bankruptcy Procedure 2002(f)(7) addresses the notice of entry of a confirmation order in chapter 9, 11, and 12 cases. There is not a rule specifically addressing the notice of entry of an order confirming a chapter 13 plan, and no reason is identified in the Committee notes for this omission.

In the process of reviewing its noticing practices, one court requested clarification regarding the authority for noticing the entry of a chapter 13 confirmation order and whether all creditors should be noticed. Section 1327(a) of the Bankruptcy Code binds the debtor and each creditor to the provisions of the confirmed chapter 13 plan, whether the claim of the creditor is provided for by the plan and whether the creditor has accepted, rejected, or objected to the plan. Courts have held that, where there is no timely objection to the plan or appeal of the confirmation order, the confirmed chapter 13 plan is accorded *res judicata* effect. *See, e.g., In re Bateman*, 331 F.3d 821 (11th Cir. 2003); *In re McLemore*, 426 B.R. 728 (Bankr. S.D. Ohio 2010); *In re Khabbaz*, 264 B.R. 204 (Bankr. N.D. Iowa 2001). Thus, the debtor and creditors should have the opportunity to review and appeal the confirmation order.

Courts can use their authority to serve notice of this order under Rule 9022 (general rule addressing notice of entry of orders), but it would be helpful to have a rule that specifically addresses this notice in chapter 13 cases in order that it be made clear who should receive it. We recommend that the Rules Committee consider this issue. The easiest solution is to make Rule 2002(f)(7) applicable to chapter 13 cases.

Sincerely,



Matthew T. Loughney
Chair, Bankruptcy Noticing Working Group