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Mark Van Allsburg

12/11/2003 07:07 PM

To: Rules_Support@ao.uscourts.gov

cc:

Subject: Comment on Proposed FRBP 3004

03-BK-004

Dear Committee Members:

- The proposed rule provides that the Clerk provide notice to the trustee, the debtor and to the creditor when the trustee or the debtor files a claim on behalf of a creditor. The current rule has the same provision.

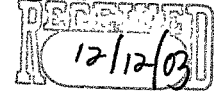
This is a real problem for the clerk's office. It is often very difficult to recognize that a claim has been filed by the trustee or by the debtor. Often the only clue is the signature on the bottom of the claim and the court staff does not pay much attention to this when docketing the claim.

Unless there is something in the **Code** which requires that notice be sent by the Clerk, then this rule should be written to require that the Clerk, or some other person as the court directs, shall send the notice. Or, and better yet, the rule could provide that the filing party serve copies of the claim to the creditor and trustee or debtor and then file a proof of service.

The wording of this section suggests that this duty cannot be delegated to another party which only makes sense if there is a Code provision which requires this. I don't see one -- although I could be wrong. Unless there is some good policy consideration this duty should be one which can be delegated.

Mark Van Allsburg
Clerk, USBC Hawaii

03-BK-004



Mark Van Allsburg

12/11/2003 07:32 PM

To: Rules_Support@ao.uscourts.gov

cc:

Subject: Proposed FRBP 4008

The proposed rule provides that parties will have 30 days after discharge to file a reaffirmation agreement. This rule is going to significantly delay the closing of cases. Presently this court, and probably many other courts, close cases at the same time as the discharge is issued. There are a lot of reaffirmation agreements filed and if we are required to allow such agreements to be filed for 30 days after the discharge then we will not close the cases for 30 additional days. And if it is a pro se debtor, the chances are really good that the closing will be delayed another 30-60 days for a hearing. I am not sure that this is terrible, but it will negatively affect creditors who waiting until a case is closed before certain collection actions [e.g. repossessions of collateral on debts which have not been reaffirmed. In the past, the parties were motivated to get reaffirmations done well before a discharge because they did not know with certainty when the discharge would be issued. I think that this is going to cause cases to last longer and that this will have negative effects.

Mark Van Allsburg
Clerk, USBC Hawaii