

**UNITED STATES BANKRUPTCY APPELLATE PANEL
FOR THE FIRST CIRCUIT**

BAP No. MW 97-095

IN RE: PAULINE T. TRAFICANTE

**UNITED STATES OF AMERICA,
Appellant,**

v.

**PAULINE T. TRAFICANTE,
Appellee.**

**Appeal from the United States Bankruptcy Court
for the District of Massachusetts
(Hon. James F. Queenan, U.S. Bankruptcy Judge)**

**Before
Goodman, Haines and Carlo, U.S. Bankruptcy Judges**

John A. Lindquist, with Donald K. Stern, United States Attorney, for the appellant.

Thomas W. Tavenner, Jr. and Curran, Coffey & Tavenner, LLP, for the appellee.

April 16, 1998

Per Curiam. Before the panel is an appeal brought by the United States (Internal Revenue Service) from the bankruptcy court's final order denying its (assented to) motion for relief from an earlier-entered order disallowing its proof of claim for trust fund taxes assessed against the debtor.

The United States asserts that the bankruptcy court erred in denying it relief from the order disallowing its claim because the debtor's objection was not served on the United States in accordance with the procedures set forth in Fed. R. Bankr. R. 7004(b)(4) and 9014.

We have jurisdiction over this appeal pursuant to 28 U.S.C. § 158(a)(2) and § 158 and § 158(b).

We agree with the appellant that the court below erred in denying its motion for relief brought under Fed. R. Bankr. P. 9024 and Fed. R. Civ. P. 60(b)(4).

This case falls squarely within our recent holding in In re Martin Laughlin, 210 B.R. 659, 660 (1st Cir. Bankr. 1997). Contrary to the appellee's assertion, the fact that the IRS had filed a proof of claim does not obviate the service requirement set forth in the rules. The fact that the United States, by filing its proof of claim, assented to bankruptcy court jurisdiction over any claims dispute does not override the rules' straightforward requirements for service of pleadings initiating such a dispute. Moreover, the fact that the Massachusetts Bankruptcy Court's local rule, MLBR 2002-2, might be read to provide an alternative, abbreviated manner of service for disputes involving the IRS. is unavailing. The local rules cannot operate to override the express requirements of the national rules. Id.

This case requires we say no more. The bankruptcy court's order denying the United States relief from judgment under Fed. R. Bankr. P. 9024 and Fed. R. Civ. P. 60(b)(4) is REVERSED and the matter is hereby REMANDED to the court below.

SO ORDERED.