

MINUTES FOR LAC MEETING ON JANUARY 31, 2012, 6:00p.m.

I. Call to Order

Warren Martin, as Chairman of the LAC, called the meeting to order. A motion was made to move and accept the meeting minutes for the November 21, 2011 meeting.

II. Chapter 13 Subcommittee Report—Herb Raymond, Chair

- a. Proposed Changes to Standard Order regarding Amendments to D,E,F were introduced, approved and will be passed onto the Board of Judges. The Proposed Order corrects the inconsistencies the prior Order had with the Federal Rules of Bankruptcy Procedure and the Code. The current Standard Order incorrectly extended the period of time creditors had to file a proof of claim.
- b. Proposed Form Application to Discharge Mortgages, Judgments, Liens, etc. was approved and will be passed onto the Board of Judges. The Sub-Committee requests that the proposed Form Order be required with the form application being optional. The Subcommittee did recommend having check boxes to indicate whether the Form Order was being followed to give attorneys the ability to deviate slightly, if and when appropriate.
- c. Loss Mitigation: Herb Raymond reported that he drafted a letter to be handed out in South Jersey by Al Russo and Isabel Balboa regarding suggested fees for attorneys representing their clients in the Loss Mitigation Program. Martha Hildebrandt suggested requesting feedback at the Bench Bar conference. It was also suggested that the State Bar Conference Call could also request input. The Subcommittee recommended holding off on a decision at this time as it is still trying to solicit feedback from practitioners.
- d. Rule 1019 discussion tabled until next meeting.

III. Ad Hoc Mediation Program Review Committee—Mariah Murphy, Chair

- a. The Chair was unable to attend, but Judge Wizmur initiated and lead the discussion. Judge Wizmur advised that a majority of attorney responses indicated that attorneys would like to see mandatory mediation. Warren Martin suggested mandatory mediation might be required based on the age of case. He also opined that mandatory mediation would not be appropriate in certain circumstances where for example, a trustee files 300 preference actions.

There was general consensus among the LAC that a mandatory program would be helpful because parties hesitate to request mediation, viewing it as a sign of weakness. Suggested hourly fee for mediators was \$300.00 per hour with 10 to 15 mediators per vicinage. Mike Sirota suggested possible step-up with the first couple of hours at a lower hourly rate and an increase in the hourly rate as the number of mediation hours increases. It was discussed that funds may be

available from U.S. Dist. Court in a Chapter 7 no asset or “low asset” case to fund the cost of the mediation. It was also suggested that some pro bono mediation could take place. Jeanne Naughton advised that a Tulane Professor could teach/train attorneys in mediation.

IV. Local Rules Subcommittee Report by Henry M. Karwowski, Chair

Reviewed 10 Proposed Rule Changes and the Committee’s Recommendations.

9 out of 10 Proposed Changes were deemed approved and will be passed on to the Board of Judges, as follows:

1. D.N.J. LBR 1007-2 --Mailing List or Matrix
Subcommittee recommended no change. Recommendation was accepted.
2. D.N.J. LBR 9013— Recommended Change: Not Approved
3. D.N.J. LBR 9004-2— Recommended Change: Approved
4. D.N.J. LBR 9006-1— Recommended Change: Approved
5. D.N.J. LBR 1001-1— Recommended Change: Approved
6. D.N.J. LBR 1073-1— Recommended Change: Approved
7. D.N.J. LBR 3003-2— Recommended Change: Approved
8. D.N.J. LBR 3007-1— Recommended Change: Approved
9. D.N.J. LBR 3016-1— Recommended Change: Approved
D.N.J. LBR 3016-2— Recommended Change: Approved
10. D.N.J. LBR 7001-1—Recommended Change: Approved

V. Chapter 11 Sub-Committee—Mark Hall Chair

VI. Status Report on Website Update—Stacy Meisel. No Report.

VII. Clerk’s Report—Jim Waldron

VIII. Liaison’s Reports:

- A. District Court—Mike Sirota. Subcommittee examining revisions to Local Rules. Should compare notes with Judge Ferguson’s Committee. E-Discovery is the “Hot Topic”.
- B. U.S. Trustee—Martha Hildebrandt discussed Rule 1019.
- C. IRS—Wendy D. Gardner. Absent. No Report.
- D. N.J. Attorney General—Ramanjit Chawla. Advised that the AG’s are now Electronic Filers.
- E. N.J. State Bar—Jerry Poslusny. February 16, 2012 State Bar Conference Call at 6:00 p.m. May 11, 2012 Bench Bar Conference. The Bankruptcy Bar’s own Ken Rosen will be installed as President of the State Bar.

IX. New Business:

Judge Wizmur raised the issue of a possible protocol in Complaints and Answers addressing parties' "consents" to bankruptcy court jurisdiction, not only in non-core matters, but in "core" matters where *Stern v. Marshall* says it's unconstitutional to decide.