

Minutes of Lawyers Advisory Committee Meeting

Date of Meeting: January 6, 2015

Location of Meeting: Forsgate Country Club, Monroe Township, NJ

Members in Attendance: Honorable Gloria M. Burns, Chief U.S.B.J., Honorable Kathryn C. Ferguson, U.S.B.J., Honorable Christine M. Gravelle, U.S.B.J., Honorable Andrew B. Altenburg, Jr., U.S.B.J., Mark E. Hall, Chair, William Mackin, Vice-Chair, James J. Waldron, Clerk, Jeanne Naughton, Deputy Clerk, David Beslow, Carrie J. Boyle, Ramanjit K. Chawla, Andrew B. Finberg, Virginia E. Fortunato, Anthony J. LaBruna, Jr., Stacey L. Meisel, Brian C. Nicholas, Jerrold N. Poslusny, Jr., Albert Russo, Shoshana Schiff, Robert J. Schneider, Catherine E. Youngman, and Mohung Wong.

1. **Welcome and Opening Remarks.** Chair Mark Hall welcomed all members to the meeting and reported approval of the 9/11/14 Meeting Minutes by way of the negative notice procedure. Thanks to Mr. Wong, the 9/11/14 Meeting Minutes have been posted to the Court's website.

2. **Chapter 11 Subcommittee Report.** Michael Viscount, Chair, was not present. Mark Hall and David Beslow led continued discussion on two related items: (a) should our Local Rules include either general or detailed Instructions (or both) to better utilize our form Small Business and Individual Combined Chapter 11 Plan/DS; and (b) should our District adopt a local rule or another mechanism providing that a debtor's satisfactory submission of the Small Business Combined Chapter 11 Plan/DS results in approval of the disclosure portions, in accordance with Section 1125(f)(2), allowing for immediate scheduling of a confirmation hearing? As part of this discussion, Mr. Beslow proposed and lead a discussion re: revisions to the Chapter 11 Small Business Scheduling Order (the "Scheduling Order") currently in use by at least one of the judges in the District to aid with the Section 1125(f)(2) quandary.

As a result of the discussion, it was decided that the Chapter 11 Subcommittee will further revise the Scheduling Order and circulate it to the entire Committee for comment by way of the negative notice procedure. Once in form acceptable to the Committee, the revised Scheduling Order will be forwarded to Judge Burns for transmission to the Board of Judges. The next Board of Judges meeting will be held March 19, 2015.

Jerry Poslusny also led a discussion related to Omnibus Claims Objections, noting that the Chapter 11 Subcommittee is considering whether there is a need for our District to adopt a local rule expanding Fed. R. Bankr. P. 3007(d) as it pertains to omnibus claims objections in a similar fashion to Delaware's local rule. As a result of the discussion, it was decided that the chapter 11 Subcommittee will conduct further research on the issue and submit a proposal for the LAC's consideration.

3. **Chapter 13 Subcommittee Report.** Al Russo, Chair, reported that the

deadline for comments to the proposed national chapter 13 plan form is February 17, 2015. There will be a Chapter 13 trustee session at the Bench Bar Conference this year, with all 3 chapter 13 trustees hosting an “ask the trustee” panel. Further, Mr. Russo noted that the Chapter 13 Subcommittee is considering three new issues and will draft the following proposed forms for consideration on those issues: (a) forms adding language to the applications and orders seeking retention of special PI counsel to reflect the need for Court authorization for settlement and disbursement; (b) form application and order for approval of a loan modification; and (c) form motion to vacate dismissals and reinstate cases.

4. **Local Rules Subcommittee Report.** Catherine Youngman, Chair, reported that she anticipates soon having clarification from Mr. Forman re: the rationale behind his suggestion that the Committee consider implementing a new local rule similar to Delaware Bankruptcy Court's Rule 9010-1(d), allowing counsel 30 days to apply for retention approval. Once that rationale is determined, the Local Rules Subcommittee will be in a position to have a more fulsome discussion of the issue.

The Local Rules Subcommittee has also been discussing a potential new local rules or guideline establishing a consumer Chapter 7 debtor's attorney's minimum level of duties similar to chapter 13 practice as captured in D.N.J. LBR 2016-1(j) and Appendix B to that Rule, and potentially guiding or regulating other practices, such as, unbundling and use of appearance counsel. The US Trustee's office requested time to review the issue and provide input prior to the drafting of any rule or guideline. Jim Waldron encouraged the Local Rules Subcommittee to push sooner rather than later on the broader issues of appearance counsel and unbundling of services as there is an ongoing national debate on these issues.

5. **Legislative Subcommittee Report.** Brian Nicholas, Chair, also reported that the deadline for comments to the proposed national chapter 13 plan form is February 17, 2015. He noted that the National Rules Committee suggests that any comments be to the point and, when appropriate, suggest options or alternative language. There will be 2 upcoming hearings on the proposed national plan form: (1) Washington, DC on January 23, 2015; and (2) Pasadena, CA on February 6, 2015. Mr. Nicholas has drafted an email notice encouraging the NJ Bar to comment on the proposed national rules, which will soon be disseminated to the District's CM/ECF list with the help of the Clerk's Office.

6. **Website/Social Media Subcommittee Report.** Stacey Meisel/Mo Wong. While there was no official Report from the Website/Social Media Subcommittee, Mr. Wong noted that several members of the Committee had not yet joined LinkedIn or the closed Lawyers Advisory Committee (“LAC”) group in LinkedIn and encouraged those members to do so to help facilitate anticipated discussions about various matters impacting the LAC.

7. **Newsletter Subcommittee Report.** Carrie Boyle, Chair, reported that the Newsletter Subcommittee anticipates that the forthcoming LAC Newsletter will be

published on a quarterly basis. The first edition is in the development stages, with the expectation that it will be ready for distribution in April 2015, in time for the Bench/Bar Conference. Ms. Boyle noted that in addition to quarterly publication of the Newsletter, the Newsletter Subcommittee is considering publishing an annual “year in review” edition. Ms. Boyle suggested that the newsletter’s name be “The Absolute Priority” – to that end, a motion was made, and seconded, to formally adopt the suggested name. The Motion was unanimously approved. Mr. Hall suggested that further discussion on appropriate topics for inclusion in the Newsletter could be accomplished by way of the LAC’s closed LinkedIn group.

8. **Board of Judges Update.** The Honorable Gloria M. Burns, Chief U.S.B.J. reported that new Bankruptcy Judge Vincent F. Papalia was sworn in to the bench on December 30, 2014. Judge Burns also noted that the Honorable Donald H. Steckroth, U.S.B.J. will be retiring on February 1, 2015, Judge Burns will be retiring on May 15, 2015 and the Honorable Novalyn L. Winfield, U.S.B.J. will be retiring soon thereafter.

9. **Rules Committee Update.** The Honorable Kathryn C. Ferguson, U.S.B.J. reported that the Board of Judges had approved the completely revamped Local Bankruptcy Rules. Judge Ferguson anticipates that the revised rules will be published on or about February 1, 2015 for public comment, after which time they will be submitted to the District Court for review and approval. Judge Ferguson will be presenting an overview of the new rules at one of the plenary sessions at the 2015 Bench/Bar Conference.

10. **Clerk's Report.** Jim Waldron noted that new filings are at their lowest level in two years and another wave of cuts is likely coming to the Clerk’s office, hopefully by way of attrition. Mr. Waldron noted that the implementation of the next generation case management software has been delayed. When implemented, each filer will be required to have his/her own accounts and may only file documents under his/her own account. Further, Mr. Waldron reported that the pro se internet project is being shut down due to lack of funding/support to monitor the program in Washington, DC.

11. **Liaisons' Reports:**

A. **District Court.** Shoshana Schiff reported that there has not been a District Court LAC meeting since the last Committee meeting on September 11, 2014 and that there is nothing new to report on behalf of the District Court LAC.

B. **U.S. Trustee .** Robert Schneider reported that Roberta DeAngelis had retired as of December 31, 2014 and that Andrew R. Vara is now the Acting United States Trustee for Region 3.

C. **IRS.** Anthony LaBruna, Jr. noted that there was nothing to report on behalf of the IRS.

D. **N.J. Attorney General.** Ramanjit Chawla noted that there was nothing new to report on behalf of the NJ Attorney General's Office.

E. **N.J. State Bar.** Jerry Poslusny reported that the Bench Bar Conference is scheduled for May 1, 2015, and noted that the schedule includes an afternoon ethics panel led by the Honorable Michael B. Kaplan, U.S.B.J.

12. **Old Business**

A. **Fillable forms on Website.** Mo Wong will review ten (10) of the most popular of the 37 non-fillable forms on the Court's website for potential conversion to fillable forms.

B. **Automatically generated Notice re: Fee.** Mo Wong reported that the automated payment notice could not be disabled after an application to waive the filing fee has been filed, but that such feature may be available as part of the next generation software.

C. **Removal from ECF Notices.** NJ practitioner raised the issue whether there was a method for removing a party from the ECF Notices in cases in which they were no longer a participant. Mo Wong reported that there is no current ability to do so, but that such feature may be available as part of the next generation software.

13. **New Business.** No new business other than as reported by the various Subcommittees.

14. **Next Meeting Date.** Date, Time and Location TBD.

15. **Motion to Adjourn.** Motion made and seconded. Motion unanimously approved. Meeting adjourned.