

Minutes of Lawyers Advisory Committee Meeting

Meeting Date: March 29, 2017

Meeting Location: Forsgate Country Club, Monroe Township, NJ

Members in Attendance: Hon. Kathryn C. Ferguson, Chief Judge U.S. Bankruptcy Court, Hon. Christine M. Gravelle, William Mackin, Chair, Catherine Youngman, Vice Chair, Jeanne A. Naughton, Clerk US Bankruptcy Court, Mohung Wong, Deputy Clerk US Bankruptcy Court, Isabel C. Balboa, Standing Chapter 13 trustee (Camden Vicinage), Morris S. Bauer (Commercial Bankruptcy/Chapter 11 Subcommittee Chair), David G. Beslow, Carrie J. Boyle (Newsletter Subcommittee Chair), Michael E. Brown, Anne S. Cantwell, Andrew B. Finberg (Chair, Consumer Bankruptcy Subcommittee Chair), Mark E. Hall, Kim Lynch, Louis A. Modugno, Eamonn O'Hagan, Shoshana Schiff (Local Forms Subcommittee Chair), and Ross J. Switkes.

Call to Order: Meeting called to order at 6:30 p.m.

Quorum: Chairman William Mackin reported the existence of a quorum to conduct business.

I. Welcome and Administrative Update – The December 7, 2016 Meeting Minutes had been reviewed, approved, and posted on Court website. Chief Judge Ferguson, Judge Gravelle and Chairman Mackin provided a report on the February 3, 2017 meeting between a group of LAC representatives and the Board of Judges. The proposed Revisions to D.N.J. LBR 2016-5 (Fees and Expenses in Chapter 13 Cases) had been approved by the LAC and forwarded to Board of Judges for consideration. LAC member Cassandra Porter having taken an in-house job had tendered her resignation from the LAC. Both Chief Judge Ferguson and Chairman Mackin had each thanked Ms. Porter for her service to date and wished her well in her new career. Chief Judge Ferguson indicated that the vacancy created by Ms. Porter's departure would be filled in September. Michael E. Brown reported on the success of the March 10, 2017 Bench-Bar Conference. Jeanne A. Naughton's investiture as Chief Clerk of the Bankruptcy Court was also well attended and successful. Mo Wong was also successfully invested as the new Deputy Clerk of the Court.

II. Commercial Bankruptcy/Chapter 11 Subcommittee Report – Morris Bauer, Chair reported that the Subcommittee is still in the process of analyzing whether the District of New Jersey should consider a rule similar to Delaware Rule 3017-2, which provides for a combined hearing on approval of disclosure statements and confirmation of plan in a liquidating chapter 11 case. Informal information on how the rule was working out in Delaware was still being solicited. He also reported that the chapter 11 post-confirmation distribution report form and the mediation report form may require modification. These matters will be discussed with the Local Forms Subcommittee.

III. Consumer Bankruptcy Subcommittee Report – Andrew Finberg, Chair reported that the Subcommittee will address requiring lenders/servicers to submit/file their signed final loan modification papers when they have actively participated in the loss mitigation program and amending D.N.J. LBR 3002.1-1 to allow HELOC lenders to send payment change notices directly to borrowers and counsel, with summary of changes filed on the docket every six months.

IV. Local Rules Subcommittee Report - Catherine Youngman, Chair reported that the Subcommittee will be drafting local rules to reinstate cases. The project will be coordinated with the Local Forms Subcommittee which will have the responsibility of drafting recommended forms to use in conjunction with such rules. These are long-term projects with anticipated reporting to the LAC for the September 2017 meeting. On the anticipation that the Board of Judges is likely to adopt the LAC's recommendation to opt-out of using the proposed national form chapter 13 plan Ms. Youngman also reported that the Subcommittee is drafting a simple local rule requiring use of our local form chapter 13 plan as a means of implementing the opt-out choice.

V. Local Forms Subcommittee Report – Shoshana Schiff, Chair reported that the Subcommittee will coordinate with the Local Rules Subcommittee to create forms for use in connection with the anticipated local rules for reinstatement of dismissed cases. Ms. Schiff also reported that separate working groups within the subcommittee will prepare a standard form of loan modification order for use within the District and modifications to local form 16A, both for mortgages and car loans.

VI. Newsletter Subcommittee Report – Carrie Boyle, Chair reported that the most recent edition of The Absolute Priority newsletter was issued shortly before the March 10, Bench Bar Conference and was dedicated to former Clerk of the Court James Waldron, the LAC and its history, and the work ahead of the LAC in 2017. Ms. Boyle noted that work has already begun on the next edition.

VII. Board of Judges Update – Honorable Christine M. Gravelle, USBJ reported that the Board's April meeting would focus on the matters most recently submitted by the LAC. Judge Gravelle next reported on the Board of Judges' discussion of community outreach efforts. Judge Gravelle also noted that the comment period for certain proposed new local rules would expire on March 31, 2017 after which time comments would be reviewed and final versions of the proposed rules would be submitted to the District Court for Review and approval. If approved by the District Court the rules would become effective on August 1, 2017. These rules are:

D.N.J. LBR 3007-2. Omnibus Objections to Claims

D.N.J. LBR 6004-5. Payment of a Professional Person for Services Relating to Use, Sale,

or Lease of Property

D.N.J. LBR 7007-1. Affidavits, Certifications, and Declarations

D.N.J. LBR 7015-1. Amended Pleading

D.N.J. LBR 7016-1. Pretrial Procedure

D.N.J. LBR 7056-1. Summary Judgment; Statement of Material Facts Not in Dispute

Judge Ferguson discussed the possible need for a mechanism to assist in the transmission of forms of order to chambers which indicated in the email submitting the form that all counsel had reviewed and agreed to the form of the order being submitted.

VIII. Clerk's Report – Jeanne Naughton reported that bankruptcy filings in this District are up 2% over last year's filings. Ms. Naughton and Mr. Wong addressed the afternoon "lag-time" being experienced on the court's website as a product of suspected data mining and that a fix was close at hand.

IX. Liaison Reports

A. District Court – Shoshana Schiff reported that Jerome B. Simandle, Chief Judge, will be retiring. Judge Jose L. Linares will become Chief Judge of the District. The Association of the Federal Bar of New Jersey's annual conference will take place on June 15, 2017 at which the William J. Brennan, Jr. Award will be conferred upon Paul Fishman.

B. US Trustee – Martha Hildebrandt (absent) – No report

C. IRS – Eamonn O'Hagan inquired as to whether it would be possible for the court to post chapter 13 day calendars on the website. The matter will be reviewed with the court and clerk's office.

D. N.J. Attorney General – Ramanjit Chawla (absent) – No report

E. NJ State Bar – Michael Brown – reported earlier on the success of the March 10, 2017 Bench-Bar conference.

F. Federal Bankruptcy Bar Assoc. of New Jersey – Mark E. Hall reported that the organization was still in its nascent stages and reviewing the initiatives to be pursued.

X. Old Business - none

XI. New Business the following upcoming events were identified:

A. Third Circuit Conference is scheduled for April 19-21, 2017 in Lancaster, PA.

B. The Honorable Gloria M. Burns Bankruptcy Bench Bar Conference jointly sponsored by the Burlington and Camden County Bar Associations will take place on April 25, 2017 at the Tavistock Country Club in Haddonfield, NJ.

C. The annual N.J.B.L.F. Golf Outing and Fund Raiser will take place at the Maplewood Country Club on June 5, 2017.

D. The New York Institute of Credit will honor Judge Michael B. Kaplan with the 12th Annual Conrad B. Duberstein Memorial Award for Excellence and Compassion in the Bankruptcy Judiciary on June 14, 2017 at the New York Marriott Marquis.

E. Asian-American Heritage will take place day on June 17, 2017 at the Trenton Courthouse. Chief Judge Jerome B. Simandle, U.S. District Court NJ and Judge Ashley Chan, Bankruptcy Judge for the E.D.Pa will be featured speakers.

XII. Next Meeting Date – June 7, 2017 - Location TBD

XIII. Motion to Adjourn - motion made, seconded and unanimously approved.