

**U.S. Bankruptcy Court for the Middle District of Pennsylvania
Attorney Advisory Committee
December 5, 2016**

Minutes

Attendance:

Bar: Brett Freeman (W-B); Ann Swartz; Anne Fiorenza; Henry Van Eck; Jim Jones; Johanna Rehkamp; Lisa Rynard; Tracy Updike(Hsbg).

Clerk's Office: Terry Miller; Seth Eisenberg; Rick Thompson; Sue Frisch; Belinda Wagner; Jennifer Miscevich, and Cindy Boyle

Chambers: Judge John Thomas; Judge Mary France; and Catherine Sisk

The meeting was convened at 3:00 pm and concluded at 4:10 pm. Judge Thomas acknowledged and thanked all members for attending this meeting. Since Judge France was leaving the meeting in a short while, she thanked all who have been involved in this Committee over the years and recognized all the good work that has been accomplished. Judge Thomas acknowledged Judge France's professionalism, leadership, and collegiality.

OLD BUSINESS:

**1. Mortgage Modification Mediation Program – (Tracy Updike)
- Mandatory use/discount of DMM portal update (Seth Eisenberg)**

Judge Thomas asked Seth Eisenberg to update the Committee on the status of whether the Court should adopt a mandatory portal. Seth indicated that there is a flat fee to use the docUmods program with a discount if used in conjunction with the DMM portal. Ann Swartz asked if it can be presented to the Bar. It was discussed that the discount to the Bar is not sufficient to make it mandatory. The portal is not being used enough to make this an issue and it was decided to shelve this discussion for approximately 6 months or until usage becomes an issue.

2. Chapter 13 Breakfast Club update (Lisa Rynard)

Lisa Rynard reported that she met with Rich Rogers, Vera Kanova, and Jim Jones, and the first Breakfast Club is planned for January 25, 2017, from 8:15 - 9:15 am. Both Judges France and Opel have hearings scheduled that day. Coffee and light breakfast will be served. Quarterly meetings will be planned. Judge Thomas asked what the meetings entail. Lisa indicated that there will be a one hour bankruptcy-related CLE program presented. There will be a \$5.00 charge for program and breakfast. A notice will be placed on the ListServ. The Club will be open to all who are interested, both attorneys and pro se individuals. The Club will meet in person and via phone in the video conference rooms. Reservations will be requested so space can be accounted for.

3. Pro Se Debtor Issues/Self-Help Center update (Terry Miller)

Terry Miller reported that an adjustment was made to scheduled meetings with attorneys and pro se individuals in that some paperwork needs to be completed prior to the scheduled meetings so the attorneys are better informed. Monthly appointments are available both in the Harrisburg and Wilkes-Barre offices and by phone for Williamsport clients. The Self-Help Center appointment dates are posted on our website but adjustments can be made. Statistics were given. To date, there have been 20 scheduled appointments; 6 conferences held; 2 no shows; and 10 cases filed. Brett Freeman made some suggestions that the entire questionnaire be filled out so follow-up can be made with correspondence sent to client to let them know they won't be representing them. Terry indicated changes can always be made to the program to stress that the meetings are informational only. Judge Thomas suggested the possibility of a mandatory pre-trial conference with pro se individuals and a possible reference to the self-help program regarding adversary cases. Judge Thomas will follow up on this for the next meeting.

4. New Hearing Calendars follow-up (Website and/or Kiosk) (Rick Thompson)

Rick gave an update on CHAP, which is the calendar program we will be utilizing in the future inasmuch as it is the nationally-supported program. Testing is being done now. Rick also reported on various other programs used in other Courts such as Florida which makes the calendars fully searchable and navigable. He is working on trying to modify programs to fit with what we want. Kiosk issues have been fixing with regarding to the scrolling issue. A new calendar program should be out in March 2017.

NEW BUSINESS:

1. Appointment of Lisa Rynard as representative for MDBBA President, Ann Swartz. (Judge Thomas)

Judge Thomas acknowledged Lisa has been appointed as representative for MDBBA President, Ann Swartz, and will remain on the Committee in that capacity.

2. Motions to Dismiss pro se serial filer cases (Jim Jones)

Jim Jones discussed the issue of automatically dismissing pro se serial filer cases due to non payment of filing fees prior to the Trustee being able to file and dispose of a Motion to Dismiss with prejudice. Most cases are filed during tax/sheriff sales just in order to stop the sale. Judge Thomas indicated this issue was discussed before and deals with the internal procedures of the Clerk's office. Judge Thomas suggested that when Motions are filed requesting in rem relief or a bar from refile, that an internal prompt be placed on the case to notify Chambers. Terry suggested a flag can be placed on these cases after the third filing and then nothing would be done automatically on the case. Anne Fiorenza noted these filers should have a chance to explain the filing. Judge Thomas indicated it is not for the Court to decide if the filer is a bad faith filer based solely on the number of bankruptcy filings. Jim was just looking for some time to file a Motion to Dismiss with prejudice before the case is automatically dismissed. Rick

asked if a docket entry indicating Debtor(s) are multiple filers would be beneficial. Since Trustees are notified of the filings, it was decided a docket entry would not be necessary.

3. Model Plan in light of the proposed amendments to Fed R Bankr Proc 3015 and proposed Fed R Bankr Proc 3015.1 effective Dec 1, 2017 (Jim Jones)

Jim Jones indicated the Standing Chapter 13 Trustee, Charles DeHart was interested in a model plan in lieu of the national plan. The similarities between the national plan and having a model plan were discussed. There are certain minimums required but it can be adjusted without violating what you need for the national plan. Jim suggested this will need to be dealt with now as to what plan we want to use before the changes next year (Dec. 2017). Judge Thomas proposed that a committee be created to study this Rule change and whether to opt in or out of the national plan. Jim said he would look into this and make recommendations to the Court. Ann Swartz will make a suggestion to the MDBBA to form this committee. This topic will be placed on the next Agenda.

4. Amendment to Rule 9006 effective Dec. 1, 2016 and changes to CHS program (Terry Miller/Seth Eisenberg)

Seth Eisenberg noted that changes to the CHS program are being made with regard to the Rule 9006 amendment. Brett Freeman asked if changes can be made to the Court's forms (Notices) regarding service/ mailing deadlines. Seth indicated the Court will adjust docketing deadlines regarding this new procedure in that 3 days will be built into the deadlines for service. The CHS program should have a date certain. It was suggested that Brett send a form Notice to the Clerk to be possibly discussed at a future meeting.

5. Division of cases for Judge Opel and Judge Thomas prior to the succession of new Bankruptcy Judge. (Judge Opel)

Judge Thomas informed the committee that Judge France would be leaving her position at the end of February, 2017. A new Bankruptcy Judge should be chosen by the end of 2016. In an effort to make the transition of cases as smooth as possible, it was decided that as of February 27, 2017, Judge Thomas will be handling all cases filed in Wilkes-Barre (Office 5) and Williamsport (Office 4), and Judge Opel will be handling all Harrisburg (Office 1) cases. The assignment of cases may revert back to the old system when a new judge begins. If there are potential conflicts, please let the Court know.

6. Updating Certified Mediator list (Judge Thomas)

Judge Thomas indicated that the last mediator survey was done in 2010 and perhaps the mediator list should be updated. Does the Bar have a need to initiate another mediation session? It was decided to survey the Bar for new mediators and update the current list. Chambers will follow up. Comments, suggestions, potential mediators can contact Chambers.

7. Proposed Meeting dates for 2017. What day of the week works best for majority? Keep 3pm time start? (Judge Thomas/Judge Opel)

Keep 3pm start time and the proposed meeting dates are as follows. Comments can be emailed to Chambers:

MEETING DATES FOR 2017:

March 6, 2017

June 5, 2017

September 11, 2017

December 4, 2017