

U.S. Bankruptcy Court for the Middle District of Pennsylvania
Attorney Advisory Committee
June 6, 2013

Minutes

Attendance:

Bar: Brenda Bishop, Robert Chernicoff, Anne Fiorenza,, Jim Jones, Lisa Rynard, Jill Spott, Ann Swartz, Tracy Updike, Henry Van Eck, and Elliott Weiss

Clerk's Office: Sheila Booth, Cynthia Boyle, Belinda Wagner

Chambers: Judge Mary France, Judge John Thomas, Catherine Sisk

The meeting was convened at 3:00 pm and concluded at 3:55 pm. Judge France welcomed the members of the Committee and Clerk's Office.

I. Old Business

A. Mortgage Modification Mediation Program (MMMP)-preliminary feedback. (Judge France)

Judge France updated everyone on the statistics received from Sheila Booth as to the status of the program. As of June 5, 2013, there were 25 requests to participate in the program; 12 orders granting the requests; and 11 orders entered dismissing the requests due to no response by the creditor. Approximately one-half of the requests to participate have been granted. In addition, four mediators have been appointed in cases as of June 5, 2013. There has been a significant interest although not overwhelming. Various members of the committee offered their input to Judge France as to the progression of the mediation program, and the overall discussion indicated good results to date. Judge France suggested that if local rule changes are needed as the program progresses, please note any issues that may occur and they will be addressed later in the year.

Judge France also informed the attendees that she will be participating on a mediation panel for the PBI Bankruptcy Institute. She will be presenting with Nancy Welsh, a leading scholar on dispute resolution and a professor at the Dickinson School of Law, and Jack Seitz, an attorney from Allentown who has mediated cases in the Middle District. She stated that attorneys who serve as mediators for the bankruptcy court will be invited to share their experiences at this session.

Judge Thomas indicated he has asked Richard Rogers to review the MMMP requests arising in his cases. He is preparing a checklist of required steps under Program as described in the local rules. Judge Thomas suggested that it might be efficient to designate one law clerk to handle all requests to participate in the Program. Judge France voiced support for this approach

because of the limited involvement of the Court in the MMMP and requested feedback from Rich. Judge Thomas suggested that by having one law clerk review all requests, he would be in a good position to suggest possible future rule changes. The centralized processing of requests to participate in the MMMP will be added as a topic to be discussed at the next judges meeting.

B. Fee committee update. (Judge France, Jill Spott, Tracy Updike)

Judge France requested an update on the progress of the fee committee, which has been reviewing various fee application processes and related issues in Chapter 13 cases.

Various committee members in attendance (Jill Spott, Lisa Rynard, and Tracy Updike) discussed a new form 2016B, which will be proposed. The “Statement disclosing compensation paid or to be paid to the attorney for the debtor” (2016(b) form) is not an official form, but a director’s form or what is now called a procedural form, it could be modified to reflect current fee practices and adopted as a local form as long as the requirements under 11 U.S.C. § 329 and Fed. R. Bankr. P. 2016(b) is met. The revised form has not yet been circulated to all members of the fee committee. The fee committee is considering various approaches including: the use of the lodestar approach combined with the Trustee’s “no look” fee and the “cafeteria” approach. All agreed the next step would be for a further meeting to discuss the options under consideration. Judge France offered to set up a meeting in July for further discussion but requested that all current proposals be circulated to her and the members of the fee committee. In connection with the fee committee’s deliberations, Judge Thomas indicated he would be interested in receiving information on the billing practices of attorneys post-BAPCPA. It was agreed that available studies on current fee practices would be obtained and circulated.

C. Status of MDBBA committees and other MDBBA matters. (Tracy Updike)

Tracy Updike thanked Judge Thomas for his part in the MDBBA Pro Bono Task Force. The Dauphin County Bar Association nominated the MDBBA and the Pro Bono Task Force for an award from the Pennsylvania Bar Association. Judge Thomas specifically thanked all committee members involved in the task force; Judge France, who initiated the task force; the members of the bar who have represented pro bono debtors; Sue Frisch who added an option in CM/ECF to help determine who files pro bono cases; and Mollie Oleyar for all her work in soliciting volunteers. He reported the appointment of pro bono counsel was operating rather smoothly and the statistics show there were over 100 volunteers last year.

Tracy Updike also reminded the attendees that the Annual Conference is June 14th and mentioned attendance is down a little from previous conferences. She requested the Judges mention the Conference to the Bar during their hearings next week.

D. Generic motion docket event (Sheila Booth)

Sheila Booth reported an email box had been set up for questions and requests from the electronic filers for generic docket events. The email is transmitted to multiple people to help with the requests for filing events. The email information is available on our website. Statistically, the email has been used 19 times for generic motion requests.

Various attendees questioned whether there was a list of filing events available to the electronic filers. Belinda Wagner pointed out our website covers most of the filing events available, but not all. There is a list of events available on our website under Filing Instructions. The list becomes too cumbersome to maintain due to frequent changes in docket events. Sheila Booth suggested using the search box located at the top of the Court's website to locate any information on a specific type of motion.

Judge France suggested that if improvements are needed or if other problems occur, to please forward an email to Sheila Booth outlining the issue.

II. New Business

A. Mediation video-possible partnership between MDBBA, the Court, and Dickinson School of Law (Judge France)

Judge France reported that during a phone conference yesterday with Nancy Welsh regarding mediation programs, it was discussed that one problematic issue with mediation is the reasonable expectations of the parties, specifically clients, during mediation. Judge France inquired whether the committee is interested in developing a video explaining the mediation process. She suggested it would be helpful to clients and attorneys to create and place a video on our website with various links. Although there are no funds to develop this video, Professor Welsh had suggested that the law school might be interested in the project.

Several attendees expressed it was a good idea based on their experience with client expectations. Judge Thomas suggested a video would be a helpful tool. He also inquired whether the Administrative Office had a video available on the mediation process. Sheila Booth indicated she would research the JNET for videos on this topic. It was suggested that placing information on our website which incorporates other resources might benefit both the attorney and client participating in the mediation process.

B. Next Meeting Date

The next meeting is scheduled for September 12, 2013 at 3:00 PM.