

U.S. Bankruptcy Court for the Middle District of Pennsylvania
Attorney Advisory Committee
June 5, 2017

Minutes

Attendance:

Bar: *Harrisburg:* Anne Fiorenza; Jim Jones; Juliet Moringello; Johanna Rehkamp; Lisa Rynard; and Tracy Updike

Telephone: Marie Reilly; Vince Rubino; Ann Swartz; and Adam Weaver

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

Chambers: Judge John Thomas; Judge Robert Opel, II; and Judge Henry Van Eck

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. Judge Thomas also welcomed Judge Van Eck to the committee in his new capacity.

OLD BUSINESS:

1. Chapter 13 Breakfast Club (report on January program) (Lisa Rynard)

Lisa Rynard reported the Breakfast Club is doing well. There have been two sessions conducted this year and a third is being planned for July. The first Breakfast Club session was held on January 25, 2017 and was attended by twenty-one (21) attorneys. The session topic was sales and short sales, presented by Judge Thomas and Ann Swartz. The second Breakfast Club was held on April 26, 2017. Since it was on Administrative Assistant's Day, this session was open to both attorneys and paralegals. This session's topic was the role of the Ch. 13 trustee in the Middle District, presented by Jim Jones. There were seventeen (17) attorneys and several paralegals who attended this session. Lisa thanked Rick Thompson for assisting with the registration setup and his continued cooperation with this program.

Judge Thomas thanked the bar for coordinating this program, which Judge France proposed.

2. Pro Se Debtor Issues/Self-Help Center updated (Terry Miller)
- **Pro se litigants in adversary proceedings (Judge Thomas)**

Terry Miller provided a statistics update on the usage of the Self-Help Center. Since the program launched in July, 2016, there have been thirty-seven (37) people who have completed

the questionnaire. In 2016, from July through December, eighteen (18) people signed up and five (5) had a consultation with an attorney. So far this year, nineteen (19) people have completed the questionnaire and eight (8) have had a consultation with an attorney. The majority of people using the program are from Wilkes-Barre counties. Although the numbers could be better, it is a fairly useful program and will continue to move forward. Terry thanked the attorneys involved with the program for their patience as people will often sign up but may not follow through with their consultations.

Judge Thomas informed the Committee he has been conducting status conferences with pro se litigants involved in contested matters. It provides an opportunity to explain the issues and often it is found that there is a lack of communication between one side or the other. The parties are then able to resolve their differences with no further litigation. He recommends giving pro se litigants in contested matters attention early on and will continue to conduct these status conferences.

3. Model Plan discussion and appointment of a committee update (Jim Jones – Ann Swartz)

Jim Jones reported the committee has unanimously agreed that the current model plan should be revised to conform with the opt out plan provisions set forth in the proposed Fed R Bankr Proc 3015.1. They are working on drafting proposed changes to the model plan to include the opt out provisions. There is a session scheduled for the MDBBA Conference later this month to discuss the model plan and opt out provisions with the bar. The committee will present the proposed changes to the bench at the end of June or July to ensure there is ample time for the required notice and comment period. Jim reiterated that the Standing Chapter 13 Trustee, Charles DeHart favors using an opt out plan rather than the national plan.

4. New Hearing Calendars status (Rick Thompson)

Rick Thompson provided an update on the status of the new hearing calendars. The nationally-supported hearing calendar program, CHAP, does not contain all of the functionality that exists in the current hearing calendar program, vCal. Enhancement requests have been submitted to the U.S. Bankruptcy Court for the District of Utah but they have not been incorporated yet. The current hearing calendar program used by the Court, is in the process of being upgraded to the latest version; however, initial testing has revealed critical errors. These errors have been reported to the U.S. Bankruptcy Court for the District of Arizona and their programmer is researching them, but it has been a slow process due to staffing issues in the Arizona Court. Once a new hearing calendar program is implemented, the public calendar may change but at this time, no changes are scheduled for the public calendar.

NEW BUSINESS:

1. Welcome to the Honorable Henry W. Van Eck, U.S. Bankruptcy Judge

At the beginning of the meeting, Judge Thomas welcomed Judge Van Eck to this Committee in his new capacity. Judge Van Eck thanked the judges, Terry Miller, Seth Eisenberg, the Clerk's Office and everyone who attended his investiture and assisted in preparing for it.

2. Ch. 13 issues:

- (1) Proper procedure to handle disbursements refunded to the trustee by a creditor after the court grants relief from the stay (such as a mortgage lender) or the claim is paid by a third party (such as real estate taxes paid by a mortgage lender).**
- (2) Proper procedures for debtors barred from refiling without prior court approval to obtain approval in order to file a subsequent petition. (Jim Jones)**

Jim Jones discussed the issue of disbursements refunded to the trustee by a creditor after the court grants relief from the stay or the claim is paid by a third party. Ideally, the Trustee would like to have the plan modified but not all attorneys will do that. Judge Thomas inquired whether the refund could be deposited as an unclaimed fund with the U.S. Treasury. Terry Miller noted unclaimed funds can be made at the time of case closing but might not be able to be made during the pendency of a case. Other suggestions proposed included, adding a provision to the model plan or including language in the proposed orders confirming plans to address this issue. The Trustee will look into these suggestions. This topic will remain on the agenda as old business and placed on the next Agenda.

Jim Jones inquired if a procedure could be established for handling petitions filed by barred debtors. The Trustee is noticing debtors who were barred by Judge France for one hundred and eighty (180) days will refile within the next month. Judges Thomas and Opel indicated the Clerk's Office notifies them when a barred debtor refiles. After reviewing the order entered barring the debtor, they generally recommend a hearing be scheduled to see if the debtor's circumstances may have changed. Judge Thomas stated he is reluctant to ex parte dismiss a case based on an order entered by another judge. Judge Opel recommended someone review cases and craft a suggestion. Ann Swartz and Jim Jones will discuss this matter further to see if they can come up with some ideas to propose. The judges will discuss this topic at the judge meeting later this month. This topic will also be placed on the next Agenda.

3. Advisory Committee Vacancy (Judge Opel)

Judge Opel indicated there is a vacancy on the Attorney Advisory Committee because of Judge Van Eck's appointment. The proposal was made for a Wilkes-Barre attorney to be appointed to serve the remainder of Attorney Van Eck's term. Judge Opel recommended appointing Attorney

John Fisher. Comments regarding this recommendation are to be provided to Judge Opel by Friday, June 9, 2017.

MEETING DATES FOR 2017:

September 11, 2017

December 4, 2017