

U.S. Bankruptcy Court for the Middle District of Pennsylvania
Attorney Advisory Committee
March 17, 2016

Minutes

Attendance:

Bar: Vince Rubino; Brett Freeman; Dan Rheam; Adam Weaver (by phone); Larry Young (by phone); Henry Van Eck; Ann Swartz; Johanna Rehkamp; Don Hahn (by phone); Tracy Updike; Anne Fiorenza; and Jim Jones

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

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

The meeting was convened at 3:00 pm and concluded at 4:35 pm. Judge Thomas introduced the new committee members and acknowledged and thanked the outgoing members for their service to the committee.

OLD BUSINESS:

1. Mortgage Modification Mediation Program update (Tracy Updike)

Judge Thomas reviewed the history of the program for the benefit of the new members. Tracy Updike reported the proposed amendments to the Mortgage Modification Mediation Program Local Bankruptcy Rule were out for comment with the deadline being April 15, 2016 and with an effective date of June 1, 2016. Ann Swartz commented on whether there was any news as to the portal issue. Judge France indicated there was nothing on the Court side. Ann will reach out to the individuals involved with the portal to get it in place before the local rule changes take effect. Judges agreed. The entire subcommittee was thanked for all the effort put in to making these rule changes possible.

2. Chapter 13 Breakfast Club update (Judge Thomas/Judge France)

Once again, Judge Thomas reviewed the history of this item for the new committee members. Lisa Rynard, who was handling this issue, is no longer on the advisory committee and the status from the last meeting until now is unknown. Judge Thomas suggested the new MDBBA President, Don Hahn, take over and he agreed. Judge Thomas requested he contact Lisa and follow up at the next meeting. Judge France also gave a little background on the program for the new members. She expressed the idea of perhaps having a presenter before Chapter 13 hearing days on hot topics, if there is enough interest with the bar members. Perhaps a lunch and learn concept but using breakfast instead. There doesn't seem to be enough interest from the bar yet and maybe this idea should be put off to the future. Judge Thomas suggested Chapter 13 fees may be an issue for a sit down and the Judges were amenable to this. Don Hahn will follow up on the matter and report back at the next advisory meeting.

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

Terry Miller reported that progress has been made on the program. Seth Eisenberg distributed the proposed Free Self-Help Program flyer to the committee members for review. The Court's website will be updated and flyer will be made available. The program requires potential debtors to watch an educational bankruptcy video and fill out a financial questionnaire prior to meeting with a volunteer attorney. Once the attorney reviews the paperwork, the Clerk's office will schedule a meeting. Volunteers are needed and the MDBBA agreed to send an email to the bar. The response to that email will determine the next steps. The goal is to reduce the number of pro se filers. Statistics on the numbers of pro se filers were discussed together with the impact this program can potentially have on the number of filers. Judge Thomas expressed the need for a program like this inasmuch as the Court spends a great deal of time on pro se matters that can be addressed prior to their appearance in Court. Several members of the committee expressed and discussed the need for clarification as to whether this program offers totally free legal advice or whether there is a possible need for fee arrangement disclosure. The pros and cons of the program were also discussed. Judge France suggested she can contact a Judge she knows in California to see how fee issues are handled there. Larry Young offered that some pro se debtors may be able to be referred to the pro bono committee or the legal services offices. Vince Rubino also suggested the volunteer attorneys know the guidelines for filing pro bono. Terry hopes to have a self help page available on the Court's website by the next meeting. He will do more research on the programs in other courts and a report will be given at the next advisory meeting.

4. L.B.R. 2016 issues update. (Jim Jones)

Jim Jones stated the need to go back to the fee committee to develop rules with regard to the *Harris* decision inasmuch as there are many issues with regard to fee applications in Chapter 13 cases. Judge Thomas pointed out that there are substantive and ethical issues and may be subject to litigation. He informed the committee there will be a session on this topic at the next PBI program. After much discussion, it was decided there is still much development on this issue and no answers until possible litigation is started. It was suggested that the local rules need not be altered for now, and this topic should be tabled until further developments by possible litigation.

5. Proposed Amendments to LBRs and LBFs update. (Beth Irving, JA to Judge Opel)

Beth informed the committee that the proposed amendments were posted on the Court's website on March 7, 2016. Comments on the amendments are being accepted through April 15, 2016. So far, the only comments received were from Jim Jones and a California rules attorney who always sends comments on local rules. After discussion with the rules committee on the comments and any changes made thereto, the amendments will be effective June 1, 2016. Judge Thomas expressed his gratitude to Judge Opel and Beth on all their hard work in keeping track of the rules and amendments.

NEW BUSINESS:

1. Topics for PBI Seminar on September 29, 2016 (Judge Thomas)

Judge Thomas reported that handouts of the agenda and topics for the PBI Seminar in September were distributed by email to the committee for comment. Some comments received from the members so far were issues such as a creditor's perspective on consumer protection laws; automatic stay issues; litigating 523 issues; opinion reviews on local cases; emerging issues on bankruptcy sales; having an ethical legal practice using technology; and various Chapter 11 and 13 issues. A suggestion was made that since some topics may be similar to the topics offered at the MDBBA conference in June, perhaps a coordination between the MDBBA and PBI programs can be made such as making MDBBA a primer for the PBI. Don Hahn suggested there is a benefit from local opinions for the PBI program. He will try to coordinate and get feedback on this topic. After some discussion, Judge Thomas offered that the agenda is not firm and comments are very welcome from all attorneys as to the areas on the agenda.

MEETING DATES FOR 2016:

June 8, 2016 (Wednesday)

September 1, 2016 (Thursday)