

U.S. Bankruptcy Court for the Middle District of Pennsylvania
Attorney Advisory Committee
March 5, 2018

Minutes

Attendance:

Bar: *Harrisburg:* Anne Fiorenza; Jim Jones; and Tracy Updike

 Wilkes-Barre: Brett Freeman; and Dan Rheam

 Telephone: J. Zac Christman; John Fisher; Vince Rubino; Ann Swartz; and
 Larry Young

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

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

The meeting was convened at 3:00 pm and concluded at 4:00 pm. Judge Thomas thanked the members for attending and for their valuable contributions to the advisory committee.

J. Zac Christman, MDBBA President, was welcomed as a new member of the advisory committee. Lisa Rynard and the Hon. Sam Bufford, an ex officio member, were acknowledged for their past service and contributions to the advisory committee.

OLD BUSINESS:

1. New Federal and Local Rule Amendments follow up, if any (Judge Van Eck)

Judge Van Eck reported that a few minor items were pointed out by the attorneys for the December 1, 2017 local rule changes. He and J. Zac Christman have discussed these items and plan to wait until the rule changes later this year to include them. Work has begun on rule changes for December 1, 2018 and more information will be provided as they move forward.

2. Model Plan follow up, if any (Jim Jones – Ann Swartz)

Jim Jones stated that from a Trustee's perspective the model plan is working well and it has been a pretty good transition. A few practitioners are still using the old form but the majority are using the new form. Ann Swartz credited the smooth transition to the fact that the U.S. Bankruptcy Court for the Middle District of Pennsylvania had a local model plan prior to the rule changes unlike other districts where it has been a bigger adjustment for practitioners. Tracy Updike took a moment to thank her colleagues who worked on the committee to revise the

model plan. She also expressed her gratitude to Judge Van Eck and Sue Frisch for their responsiveness in addressing technical issues with the fillable PDF version of the form.

NEW BUSINESS:

1. PBA referral service fee sharing and 11 U.S.C. §504(a) (Daniel Rheam)

Dan Rheam inquired if the PBA Lawyer Referral Service fee should apply to consumer bankruptcy consultations. The PBA Lawyer Referral Service refers callers to lawyers in counties that do not have a referral service of their own. There is no charge for people to contact the PBA Lawyer Referral Service; however, by using this service, the participating attorney is to reimburse the PBA a portion of their consultation fee.

Larry Young added that the York County Bar Association has a local referral service. If an attorney is willing to take a referral, they are to pay 10% of the fee back to the York County Bar Association. The attorneys are not allowed to increase their fees to cover the 10%.

Anne Fiorenza is looking into this matter with her colleagues. In the interim, it was recommended that J. Zac Christman write a letter to the PBA and request consumer bankruptcy referrals be excluded from the reimbursement fee.

2. Federal Rule of Bankruptcy Procedure 4001(c) - Whether Local Rules are necessary regarding Chapter 13. (Jim Jones)

Jim Jones stated the Rules Committee has reviewed the proposed rule amendments which are currently out for public comment. Federal Rule of Bankruptcy Procedure 4001(c) is proposed to be amended to state it does not apply in Chapter 13 cases. Discussed whether Local Rule 4001-3 Obtaining Credit should be amended to include a formal rule for Ch. 13 non-business debtor cases and a few concerns regarding the current structure of this local rule.

Judge Van Eck and the Rules Committee will review Local Rule 4001-3 and circulate proposed amendments to the judges.

3. Form 410 - Mortgage Proof of Claim Attachment and Mortgage Statements with regard to the Model Plan and Local Rules (J. Zac Christman - MDBBA President)

J. Zac Christman initiated a discussion as to whether terminology included in the model plan form adopted by the U.S. Bankruptcy Court for the Eastern District of Pennsylvania should be included in this Court's model plan. In the Eastern District's model plan, §7(b) Affirmative Duties on Holders of Claims secured by a Security Interest in Debtor's Principal Residence subparagraph (6) states "Debtor waives any violation of stay claim arising from the sending of statements and coupon books as set forth above." It was noted that the Eastern District's model plan was not finalized at the time the Model Plan Subcommittee was revising this Court's local model plan form.

Judge Thomas referred this matter to the Model Plan Subcommittee for Jim Jones and Ann Swartz to review and provide a recommendation.

J. Zac Christman also initiated a discussion with regards to Official Form 410A - Mortgage Proof of Claim Attachment. This form is complicated and time consuming to prepare with the various mathematical calculations. A well prepared Form 410A can avoid claims litigation. The U.S. Court's website does not provide this form in a fillable version. The request was made for the Court to provide a fillable version of this form for practitioners to use.

Chief Judge Opel commented that this request was previously made to his chambers. At that time, the IT staff reviewed the form and found it would be a time consuming project to complete. Since the Court does not have the time and resources to undertake this project, it was suggested the MDBBA review this matter and if it is a worthwhile endeavor, hire someone to accomplish this task. The fillable form the company prepares can then be adopted as a local form.

Tracy Updike added that this is generally a creditor form and there are not many members of the bar that need to complete it. The major lenders have it setup to extract the data and populate the form; however, the attorneys who work with the smaller lenders need to manually prepare the form.

This matter was referred to the Rules Committee for review.

4. Wilkes-Barre Courtroom (Judge Thomas)

Judge Thomas stated that there have not been many hearings lately in Wilkes-Barre because the courtroom has been under construction. An electronic evidence presentation system was installed along with several new large screen monitors throughout the courtroom. Training sessions will be arranged for attorneys to learn how to use the new electronic evidence presentation system.

FUTURE MEETING DATE(S):

Meetings will be held quarterly on the first Monday of the month at 3:00 pm. If there are conflicts, adjustments will be made.

The next meeting is scheduled for **Monday, June 4, 2018 at 3:00 pm.**