

U.S. Bankruptcy Court for the Middle District of Pennsylvania
Attorney Advisory Committee
December 9, 2015

Minutes

Attendance:

Bar: Brenda Bishop; Thomas Capehart (by phone); Anne Fiorenza; Don Hahn (by phone); Jim Jones; Mark Moulton; Lisa Rynard; Jill Spott; Ann Swartz; Tracy Updike; and Henry Van Eck

Clerk's Office: Terry Miller; Seth Eisenberg; and Sue Frisch

Chambers: Judge John Thomas; Judge Mary France; Judge Robert Opel; Catherine Sisk (by phone); and Beth Irving

The meeting was convened at 3:00 pm and concluded at 4:50 pm. Introductions were made and Judge Thomas welcomed the members of the Committee and Clerk's Office.

OLD BUSINESS:

1. Mortgage Modification Mediation Program update (Tracy Updike and Ann Swartz)

Ann Swartz reported the subcommittee has incorporated the changes discussed at the last meeting to the proposed amendment to the Mortgage Modification Mediation Program Rule 9019-3. The goal was to make the rule flow better, make the process move more smoothly and get the Court involved, if necessary. A redlined copy of the proposed amendment was reviewed and minor edits were suggested. The subcommittee will make these edits and circulate the proposed amendment to the Rules Committee. Attorney Swartz anticipates the Rules Committee will act quickly and approve these changes so that a final draft can be provided to the Court for inclusion in the upcoming proposed amendments to the local rules and forms. Judge Opel inquired if the current Local Form 9019-3(d), Debtor's Certification of Readiness for Mediation, would still be necessary. Attorney Swartz advised that it would not. Judge France expressed her appreciation to Attorney Swartz and the subcommittee members for working on these changes.

2. MDBBA Rules Committee update (Tracy Updike)

Tracy Updike reported that except for the proposed changes to the Mortgage Modification Mediation Program Rule 9019-3, everything referred to the Rules Committee was forwarded to the Court in August. She noted the Rules Committee discussed the possible creation of an Administrative Claim Form but agreed to wait until after the modernized proof of claim form was implemented. This topic will be presented to the MDBBA Board to see if there is enough interest from the bar on a whole to have a local form created for administrative claims.

3. Chapter 13 Breakfast Club update (Lisa Rynard)

Lisa Rynard reported that a survey was circulated to the MDBBA members. Twenty-five percent of the members responded and of the responses, 80% were positive. In August, there was a great deal of discussion at the MDBBA Board Meeting regarding this topic. An email will be sent out shortly soliciting volunteers to help create this program and do presentations. Attorney Rynard will report back at the next advisory meeting as to the status of this program.

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

Terry Miller reported a committee has been formed to create a pro se debtor self-help center. The committee comprises of himself, Belinda Wagner from the Clerk's Office, a representative from legal services and Attorneys Lisa Rynard, Vincent Rubino, Don Hahn and Juliette Moringiello. The committee met for the first time before Thanksgiving. At the meeting, they reviewed pro se case statistics and discussed the program currently in place in the U.S. Bankruptcy Court for the District of Arizona. The committee discussed two goals for Ch. 13 cases: (1) to provide clearer information about the Ch. 13 case process; and (2) leveraging a self-help center in the Clerk's Office to deter self-representation. The committee will assess self-help programs established across the country in various Courts to determine which one suits our needs best. The committee is scheduled to meet again in January, 2016. Judge Thomas suggested that Terry report back on the progress at the next advisory meeting.

NEW BUSINESS:

1. L.B.R. 2016 issues. (Jim Jones)

Jim Jones stated the Ch. 13 Trustee's office has noticed attorneys are becoming very creative with regards to getting paid their fees subsequent to Local Rule 2016-2(h) being repealed. He requested a dialog take place to modify the prior local rule so that there is a standard way to request fees in a manner that is acceptable by the Court and that will also work for the attorneys. The judges agreed the dust has not settled yet on the *Harris* decision, so it is too soon to put a rule in place. This matter might be taken to the Rules Committee and revisited in a few months.

2. Proposed Amendments to LBRs and LBFs. (Judge Opel)

Judge Opel stated that on November 12, 2015 the proposed amendments to the local rules and forms were circulated to the Advisory Committee. The only substantive response received was from Jim Jones. Attorney Jones' comments were reviewed and will be taken under consideration. The Committee discussed whether the new Local Form 6004-1 should be one form notice covering public and private sales or separated into two notices. The Court decided this new suggested form will remain one notice. Judge France reported she has been working with Judge Caputo and the U.S. District Court's Rules Committee to refine the new proposed Local Rule 5011-1 which would address motions to withdraw the references. The intention of this new rule is to have a process in the Bankruptcy Court that coordinates well with the U.S. District Court so attorneys know what they need to do. Judge Opel noted the proposed amendments to the Local Bankruptcy Rules will include this new proposed local rule for 5011-1

and new local rules 7008-1 and 7012-1 requiring consents in adversarial proceedings. The proposed amendments to the local bankruptcy rules and forms will be published for comment in early 2016.

3. New Bankruptcy Forms effective Dec. 1, 2015 and Court text Order re: non-compliance. (Judge Thomas)

Judge Thomas reminded the Committee new Bankruptcy Forms went into effect on December 1, 2015. The old bankruptcy forms are permitted to be filed in cases filed prior to December 1, 2015. If the old bankruptcy forms are filed in cases filed after December 1, 2015, the Court will issue a text order. Each judge has their own language and some may schedule a show cause hearing, so it is important attorneys read each order carefully. Jill Spott added that some software vendors still do not have their programs updated with the new bankruptcy forms.

4. New Monthly Operating Reports (Ch. 11 Cases). (Anne Fiorenza)

Anne Fiorenza reported the USTP has proposed new monthly operating reports for Ch. 11 cases. The proposed rule, the notice of public hearing, and the proposed periodic report forms and instructions may be viewed on the Program's internet site on the Proposed Rule and Forms page located at: <http://www.justice.gov/ust/rules-and-federal-register-notices#proposed>. The proposed rule and notice of public hearing may also be viewed on www.regulations.gov. The comment period runs through February 22, 2016. Anyone with a comments can notify Anne and she can submit it.

5. Terms of Committee Members - Local Rule 9029-1. (Judge Thomas)

Judge Thomas thanked everyone for their participation on the Advisory Committee and advised that their term has come to an end. Judge France will be consulting with the other judges and Don Hahn, President of the MDBBA to appoint eight (8) attorneys to serve on the Committee starting next year.

6. Holiday Schedule for the Clerk's Office. (Terry Miller)

Terry Miller reported the Holiday Schedule for the Bankruptcy Clerk's Office will be the same as the U.S. District Court and Third Circuit. The Clerk's Office will be closed Thursday, December 24, 2015 and December 25, 2015. The Clerk's Office will be open Thursday, December 31, 2015 operating with a limited staff and closed Friday, January 1, 2016.

[PROPOSED] MEETING DATES FOR 2016:

The proposed meeting dates for 2016 are:

- March 17, 2016 (Thursday)
- June 17, 2016 (Friday)
- September 9, 2016 (Friday)
- December 16, 2016 (Friday)

The proposed meetings were scheduled for Friday's to accommodate the Court hearing calendars. It was agreed Thursday afternoons work best for everyone's schedule. The judges will review their hearing calendars and make adjustments to allow for these meetings to be scheduled for Thursday's.

The next meeting is scheduled for Thursday, March 17, 2016 at 3:00 pm. If there are conflicts for several committee members, please contact Chambers and a new meeting date will be selected.