

U.S. Bankruptcy Court for the Middle District of Pennsylvania
Attorney Liaison Committee
September 1, 2011

Minutes

Attendance:

Bar: Bob Chernicoff, Jim Jones, Lisa Rynard, Joe Schalk, Ann Swartz, Jill Spott, Tracy Updike, Adam Weaver and Elliott Weiss

Clerk's Office: Sheila Booth, Kathi Leon, Sue Frisch, Christina Kovach and Mike McHugh

Chambers: Judge Mary France, Judge Robert Opel, II and Alex Perez

The meeting was convened at 3:00 pm and concluded at 4:00 pm. Judge France welcomed the members of the Committee and Clerk's Office.

I. Old Business

A. Rules Committee Update

Judge Opel reported that a local rules sub committee of the Advisory Committee has been working on drafting amendments to the local rules. The local rules are primarily being amended to address two areas: (1) to be in compliance with amendments to the Federal Rules of Bankruptcy Procedure effective December 1, 2011; and (2) some administrative changes requested by the Clerk's office and judges. A significant number of changes to the federal rules do not require changes to the local rules; however, there are a few that will have an impact on the attorneys in our district. Ann Swartz reviewed the amendments to Rule 3001 which prescribes greater detail in the supporting information for certain proofs of claims and Kara Gendron reviewed the new Rule 3002.1 which pertains to mortgage claims and the need to file additional information regarding the payment information after the filing of a claim. The proposed changes to the local rules were circulated late last week to the local rules sub committee. Before any of these proposed amendments are adopted, they will be published for a thirty (30) day comment period. Judge Opel is mindful of the December 1, 2011 effective date.

A discussion took place regarding new Rule 3002.1 and its impact on local rules 3015-2 and 3015-3. Attorney Joe Schalk stated he recently had the opportunity to attend a national conference for trustees where it was stated repeatedly that this new federal rule is intended to replace the many local rules which courts have implemented to fill a void for something that didn't exist in the national rules.

Judge France thanked Judge Opel and the local rules sub committee for their time working on this daunting task.

B. Court's new "webcalendar"

Attorney Jim Jones inquired as to the status of the Court's new hearing calendar. Sheila Booth, Chief Deputy Clerk, advised that the Court's programmer was informed of the issues reported at the last meeting and he made changes to address them. Attorneys and their staff are encouraged to use the beta version that is on the Court's website and provide feedback to Terry Miller (Terry_Miller@pamb.uscourts.gov) and Sheila Booth (Sheila_Booth@pamb.uscourts.gov).

II. New Business

A. *Stern v. Marshall*

Judge France informed the Advisory Committee that the Bankruptcy Court for the Middle District of Pennsylvania will not be implementing any procedures as a result of the Supreme Case's ruling. Some jurisdictions have decided to put procedures and/or standing orders in place and the bar should be aware of this when practicing in multiple districts.

B. Mortgage modification and loan mitigation program.

Judge France stated there are number of mortgage modification and loss mitigation programs operating in various bankruptcy courts (ex. NJ, NY-S, RI, WI-E and FL-M). The bankruptcy judges in the Middle District have discussed this but there is not unanimity that this is something that should be done. Information about these programs can be found on these court's websites. To access these websites, go to the US Court's website (www.uscourts.gov) and use the Court Locator option.

Judge France requested a task force be created consisting of members of the bar and the Advisory Committee to see if this is something the bar would like to consider. A few suggested discussion issues for the task force are:

- (1) Is there a need for a program like this in the Middle District of Pennsylvania?
- (2) What resources are needed to implement a program? In WI-E's program both the debtor and creditor pay a fee that goes to a mediator. In FL-M, only the debtor pays a fee that goes to a mediator.
- (3) If the task force decides a program is needed, what kind of program would be needed for this district?

There were six (6) volunteers from the Advisory Committee for this task force. They are Tracy Updike, Ann Swartz, Joe Schalk, Jim Jones (or a representative from the Ch. 13 trustee's office), Elliott Weiss and Adam Weaver. Judge France will email her thoughts on this and turn it over to the volunteers to do an exploration of this topic and report back at the December Advisory Committee meeting.

C. Mortgage modification agreements

Attorney Tracy Updike proposed this topic because her most recent motion for a mortgage modification was denied because the mortgage company had not signed the agreement. Mortgage companies will not sign these agreements without an order. It was also noted that a motion for mortgage modification was approved by Judge Thomas even though the agreement was not signed by the debtor or the mortgage company. There is inconsistency among the judges on how these are handled. It would be helpful for everyone if the judges could come together and identify what is needed for this process.

Judge Opel noted that these motions are close to a motion to obtain credit which is addressed in local rule 4001-3. A signed agreement wouldn't be expected but something from the lender identifying the basic terms of the modification agreement would be needed to determine whether it was appropriate for a debtor to enter into those terms. Judge France agreed that these needed to be treated separately from the settlement agreement. This will be discussed with Judge Thomas and if he is in agreement then that will be how these should be processed.

D. Filing of proofs of claims for mortgages after effective date of revised Federal Rules

Attorney Joe Schalk proposed this topic to inform the Advisory Committee that two of his clients recently contacted him and requested he inform the Court, trustee and debtor's attorneys in the Middle District of Pennsylvania that there will be a delay in the filing of claims because of the new forms and the amount of work that needs to go into preparing the claims under the new federal rules. One client stated due to the additional documentation required of the mortgage lenders, that they may not have their proof of claim filed until after the first confirmation hearing. His clients are concerned there may be an increase in debtors filing claims on behalf of creditors in order to get their plan confirmed. Attorney Jim Jones stated the trustee does not monitor who filed the claim, just whether anyone has objected to it. Judge Opel added that if a proof of claim is filed on behalf of a creditor on an untimely basis, then that creditor should take some action regarding the claim.

E. Next Advisory Committee meeting date.

The next Advisory Committee meeting is Thursday, December 8, 2011 at 3:00PM.