

U.S. Bankruptcy Court for the Middle District of Pennsylvania  
Attorney Advisory Committee  
February 16, 2023, at 1:00 PM

Attendance: Judge Van Eck, Judge Conway, Matt Smith, Sarah Rothermel, Terry Miller, Karen Muroski, Seth Eisenberg, David Harris, Jack Zaharopoulos, Jim Jones, Bob Chernicoff, Dawn Cutaia, Lisa Doran, Gary Imblum, Bob Kidwell, Jill Manuel-Coughlin

**OLD BUSINESS:**

1. Proposed L.B.R. 9019 Amendments (Troy Sellars)
  - a. Update on amended loan modification local rules.
    - a. Troy Sellars: two drafts submitted to committee; still pending with committee. Committee has not been able to mesh the two drafts.
    - b. Jim Jones: Concurs that there were splits on the panel regarding the two drafts
    - c. Judges Van Eck and Conway had discussed and agreed, but due to length of time since last meeting, will revisit and offer thoughts to rules committee.
- 2 & 3. Chapter 11 Small Business Procedures (Seth Eisenberg)
  - a. Seth: The Court prepared the scheduling orders and got minor feedback, which has been incorporated. Once the Court approves the scheduling orders, they can be used on a prospective basis.
  - b. Discussion regarding requirement of filing reports and whether the Debtor or the Court should serve the orders. The Court will revisit and Judges will confer. (Per LR 3017-1, current processing for non-small business 11's: Plan proponent serves order & notice setting hearing on disclosure stmt as well as order approving disclosure stmt and setting hearing on confirmation of plan. For small business cases, while not in the local rule, scheduling orders generally direct the filing party to serve on the requisite parties/creditors.)
4. Replacing Johanna Rehkamp on Advisory Committee (Judge Van Eck)
  - a. Welcome Jill Manuel-Coughlin

**NEW BUSINESS:**

1. Self-Help Program Update (Terry Miller)
  - Terry Miller: Test page set up and worked through with Dawn Cutaia. The Court is still looking for volunteers to help with the program. On average, 4-5% of filings are from

pro se filers. If this percentage goes up, the Court expects more people to start using the self-help program.

- Judge Van Eck: Outlined reasons to participate in the program: giving back; helping the Court and pro se filers; participating may result in new or increased business for volunteers.
- Troy Sellars: Related to the self-help program, while the MDBBA website used to include a list of attorneys, it appears that the updates omitted this information. Will the list be added in the future?
- Dawn Cutaia: Yes, the MDBBA will include a list of attorneys on the website. The MDBBA is currently trying to update the settings for the list so that it reshuffles at random when people visit the site so attorneys with last names near the top of the alphabet do not appear favored.

2. Setting Presumptively Reasonable Fee in standard consumer Chapter 7 cases (Troy Sellars)

- Troy Sellars: Soliciting thoughts on setting a presumptively reasonable fee for noncomplex consumer Chapter 7 cases. A comparable fee exists for Chapter 13 cases, but not for 7s.
- Bob Chernicoff: Unsure if a set fee is needed in Chapter 7s. The market sets the rates since all the attorneys know what everyone charges.
- Dave Harris: There shouldn't be a significant deviation nationwide in terms of fees, but there could be shortcuts taken and a decrease in work quality if the fee is set too low. It's already a race to the bottom since it's difficult to make money on Chapter 7s. Dave bills hourly and keeps track of his time in 7s despite the flat fee, and notes that his fees always far exceed the flat fee.
- Gary Imblum: Market forces control right now – people shop around. Perhaps it may be better to address specific fee problems with specific practitioners, rather than setting a fee for everyone.
- Jim Jones: The presumptively reasonable fee was set in 13s to reduce fee apps for the Court, but Chapter 7s do not have fee apps. Perhaps the UST could have a set figure in mind and if practitioners want to go over this, they could justify for the UST.
- Dawn Cutaia: Market forces control. Practitioners need to ensure they are charging a reasonable amount, otherwise clients will hire someone else. Practitioners can set this for themselves.
- Judge Van Eck: Notes that there is not a lot of support for the idea and that market forces may control fees.
- Troy Sellars: Happy to hear feedback from everyone and will not revisit the issue for now.

3. New Harrisburg Courthouse move – April 17, 2023 (Terry Miller)

- Terry Miller: Current courthouse will remain open to the public with skeleton staffing until close of business on April 14, 2023. The move will be taking place during the last

week in March. The Court is expecting a soft opening during the week of April 10, but the new building will not be open to the public until April 17, 2023.

- Judge Van Eck: There are blackout dates during the first two weeks in April. Any emergency hearings will be conducted remotely during this time.
- Bob Chernicoff: Will there be parking for attorneys?
- Terry Miller: There will be staff parking at the roundabout, but he is not certain that PHEAA is offering general public parking
- Troy Sellars: A company purchased a lot north of the new building that is planning to put in hourly parking outside of the SP+ exclusivity area.
- Terry Miller: Practitioners will need to update their notices for the new building. The address is 1501 N. 6th St, Harrisburg, PA 17102.
- Judge Van Eck: Notices will be important – the Court will have concerns about whether it can conduct hearings if notices are sent with the old address.
- Terry Miller and Judge Van Eck: The Court would like to have an open house for practitioners once the new building is up and running to everyone can see the new courtroom and chambers. The Court will circulate an announcement for this once the move has taken place.

4. Questions regarding Judge Van Eck's practices and procedures (Jim Jones)

- Jim Jones: A practitioner expressed concern regarding the fairness of asking local attorneys to bear the expense of coming to court in person when attorneys who practice outside of the 30 miles are permitted to appear remotely.
- Judge Van Eck: The burden would not be evenly shared if everyone was asked to return in person. We have tried to make the procedures as fair as possible, but the concern is that certain practitioners simply do not wish to return to court. This is not an option anymore. The 30-mile limit is arbitrary, but it was calculated to minimize the expense and burden to debtors and creditors alike. The Court carefully considered and balanced competing concerns while recognizing that attorneys need to come back to court.
- Jill Manuel-Coughlin: Appreciates the return to the courtroom for the sake of younger attorneys/recent graduates. Attorneys need to educate the younger bar about how to appear in court.
- Bob Chernicoff: Implementation of the procedures has been working well. Court staff have been accommodating.
- Jack Zaharopoulos: The practices are fair and have been fairly implemented.
- Troy Sellars: Agreed that the practices have been fair. Court staff have been responsive and accommodating for last minute requests.

5. Update from the bar regarding market conditions (Judge Van Eck)

- Jack Zaharopoulos: Seeing at least a 20% month over month increase in Chapter 13 filings from last February (February to February), which is consistent with the national trend.

- Terry Miller: Clerks office is seeing higher filings this year compared to the same timeframe last year (this January was 16% higher than last January) but they are still lower overall.
- Troy Sellars: Nationally, filings are above where they were this time last year, but they are still lower than from 2021 and 2020. However, Chapter 13s are taking off – they are 35% high than they were last year.
- Bob Chernicoff: Calls and filings are going up for his office (Jim Jones concurs). A few 11s in the works.
- Gary Imblum: Filings are overall increasing slightly, but they are not where they were in 2019.
- Jill Manuel-Coughlin: There are a larger volume of foreclosures (15-20 foreclosure complaints per day), but these often settle via loan modifications or HUD loans. Creditors are more willing to work with people to avoid filings. In many cases, multiple loan modifications are granted in lieu of foreclosure.
- Seth Eisenberg: AO is expecting an increase in filings due to economic indicators. Consumer credit card debt is increasing.

**FUTURE MEETING DATE(S):**

Thursday, May 18 at 1:00 PM

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