

U.S. Bankruptcy Court for the Middle District of Pennsylvania
Attorney Advisory Committee
August 17, 2023, at 1:00 PM

Attendance: Judge Van Eck, Sarah Rothermel, Leigh Nazzario, Terry Miller, Seth Eisenberg, David Harris, Jim Jones, Bob Chernicoff, Lisa Doran, Bob Kidwell, Rick Thompson, Jen Misceovich, Mario Hanyon, Jill Manuel-Coughlin, Troy Sellars, Jill Durkin, Jack Zaharopoulos

OLD BUSINESS:

1. Streamlining Chapter 7 cases with pro se Debtors (Judge Van Eck)
 - a. Judge Van Eck: this matter was previously brought by Kara Gendron seeking email information from pro se debtors to provide to the Trustee
 - b. Rick Thompson: email information is not always provided by debtors. If the Trustee wants this information, they can request it.
 - c. Terry Miller: Kara Gendron/Trustees can ask for emails if they need it, but the clerk's office will not put this information on the docket. (The current petition form does not require the email address for the debtor; in fact the form instruction states "If you are not represented by an attorney, you do not need to file this page.")
 - d. Jack Zaharopoulos: all 341 meetings will be conducted by Zoom soon, so debtors may provide email addresses to get Zoom access.
 - e. Troy Sellars: contacting pro se filers is challenging, but we can always send letters. Regarding Zoom, we will not have email for pro se debtors that join Zoom by phone.
 - f. Jim Jones: there are a surprising number of clients that do not have email addresses
 - g. Judge Van Eck: this matter will be removed from the agenda for the next meeting.

NEW BUSINESS:

1. Court's self-help program (Terry Miller)
 - Terry Miller: there has been a change in how the program is used. Emails are now sent to Dawn Cutaia to recruit attorneys willing to meet with potential pro se filers. Dawn Cutaia is in charge of coordinating the program.
 - Terry Miller: 119 pro se cases have been filed this year, but only 39 of them are still open. Of these, 12 individuals or 10% of the 119 pro se filers sought help. Pro se filings make up 6.4% of the total cases filed thus far this year.
 - Judge Van Eck: Judge Thomas championed the self-help program. Its purpose was to facilitate access to the courts. Are there any ideas to assist pro se debtors with getting help?

- Troy Sellars: the self-help program is likely more successful than the statistics show because some pro se filers are artificial entities that cannot get a discharge and some pro se debtors are serial filers who do not intend to make a real effort to reorganize. Those remaining are likely the ones taking advantage of the program.
- Jack Zaharopoulos: self-help program is super important because very few pro se debtors can get a Chapter 13 discharge on their own. Stats from other districts indicate that last year, only 4 people got a 13 discharge, and 2 of them were attorneys
- Jim Jones: in terms of working with pro se filers, Chapter 7s are difficult for people since the attorney's fee needs to be paid up front, but the 13s are easier since the fees can be spread over the life of the plan.
- Terry Miller: Mid Penn and other pro bono services will sometimes send emails asking for assistance for potential pro se filers
- Jill Durkin: the self-help program seems to attract mostly southern-tier filers. Pro bono services are often offered in the northern tier through other avenues.
- Judge Van Eck: it seems the program is more successful than we thought
- Terry Miller: Dawn is still the contact for the program. Hopefully as filings increase, more people will take advantage of the program.
- Jill Coughlin: in New Jersey, attorneys can volunteer to supervise law school students who can help pro se filers prepare schedules/petitions
- Jill Durkin: Widener has a civil law clinic with a similar setup
- Rick Thompson: the system for the self-help program has become easier to use, which has led to an increase in contacts
- Terry Miller: the new system does not track data on usage
- Judge Van Eck: we will remove this topic from the agenda in the future

2. Judicial Guidance on the broadcast rule (Judge Van Eck)

- Judge Van Eck: no additional guidance on broadcast rule, but we will get this guidance in early September (the 12th or 13th) 2023 with the guidance to be implemented by September 22, 2023. Overall, we can only speculate as to what will happen. As a matter of speculation, we are guessing that participants will still be able to use Zoom, but observers will need to come to the courthouse if they wish to watch court proceedings.
- Terry Miller: we are waiting for the official policies and hope that the guidance will not remove the judges' discretion to use Zoom.
- Troy Sellars: September 11 is the start date for Zoom 341 meetings. As far as we are aware, the guidance only affects the court's use of Zoom
- Jack Zaharopoulos: Zoom 341 meetings procedures will change, but zoom will still be used
- Rick Thompson: AO focused on livestreaming, rather than what our court does, which is a closed system requiring permission to access it.
- Judge Van Eck: distinctions have typically been made for bankruptcy proceedings compared to other civil or criminal proceedings, and bankruptcy matters lend themselves

well to zoom. We expect that zoom will be restricted as to participants, but we do not know for sure.

- Terry Miller: there have been clarification measures added to the procedures that phone use for zoom should be limited to backup use in case the participant's camera doesn't work

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

- Judge Van Eck: What's going on with the market? We're seeing a general uptick in filings
- Terry Miller: charts and statistics show a general increase in the past 12 months. We are ahead in filings by about 6 weeks over this time last year.
- Bob Chernicoff: we have continued to be busier. Sometimes workouts have been more frequent than filings. Increased interest rates are making things more difficult for people, especially small businesses.
- Troy Sellars: year-to-date, we are only 700 cases away from topping last year
- Bob Kidwell: our 13s are up 30%, but 7s are fairly static
- Terry Miller: Chapter 11s have increased as well
- Seth Eisenberg: our 13s are tracking the national numbers
- Jack Zaharopoulos: our 13s are up 40% year to date
- Troy Sellars: at the national level, 13s are super popular

4. Troy Sellars announcements: (1) we are moving to Zoom for 341 meetings. There will be a training session for bar members, so keep an eye out for the announcement. (2) thank you to the bar for the help from attorneys volunteering their time to assist the UST.

FUTURE MEETING DATE:

Thursday, November 16 at 1:00 PM
