

U.S. Bankruptcy Court for the Middle District of Pennsylvania
Attorney Advisory Committee
February 13, 2020 at 3:00 PM

David Harris, Lisa Doran, Judge Opel, Tullio Deluca, Larry Young,
Kevin Frankel, Rick Thompson, Seth Eisenberg, Gary Imblum, Lisa
Rynard, Judge Van Eck, Troy Sellars, Jim Jones, Kara Gendron, Tracy
Updike

Meeting convened at 3:00 PM

AGENDA

OLD BUSINESS:

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

JJ: Amendment to 2005 which affects person who doesn't want to be examined.

Whether or not a claim objection against a credit union needs to be served as against a federally insured depository institution.

JJ discussed other rule changes as well; nothing overwhelmingly impactful

2. Discussion on the Local Rules and redundancy with Federal Rules (Judge Van Eck)

MDBBA Rules committee is working through the rules in groups for redundancies, etc. Smaller groups will cross-check other small groups' suggestions. Working proposal by July, estimate. HWV offered the court's availability for input on some rules too.

3. Model Chapter 13 Plan Form (Judge Van Eck/Jim Jones)

Off for next time

4. New Committee Goals (Judge Van Eck)

Off for next time

NEW BUSINESS:

1. Report on CM/ECF NextGen Upgrade and Upcoming Additional Updates (Rick Thompson)

There were still issues with people upgrading PACER accounts. A new update will be put into place on Tuesday night the 18th. Another upgrade at an undetermined date shortly thereafter. Not much impact for the attorneys.

Dave Harris: are major vendors accommodating the new subchapter V procedures?

All the attorneys need to update their software, even if the software provider accommodates the new changes. All good comments about the upgrade to NextGen CM/ECF.

2. 11 U.S.C. § 506, F.R.B.P. 3012 & F.R.B.P. 7001 (Judge Van Eck)

HWV: consider making adjustment to the model chapter 13 plan to remove adversary proceeding option?

3. New Subchapter V of Chapter 11

a. Model forms—disclosure statement/plan

The new Subchapter V Trustees have been selected but have not been announced yet. Training and background checks are still in process. Unlike panel trustees, this is a pool of trustees, so the assignment won't be regional. MDBBA breakfast club presentation on March 4th will be on the Subchapter V. Troy: the beginning of a new case is going to be a really tight turnaround. A model form might be something to consider going forward. Model plan might even encourage more practitioners to file Chapter 11s. HWV asked the attendees whether any clients have begun to express interest in a filing. Kara pointed out the cost-benefit analysis, which is difficult to do in an unknown statutory scheme.

Maintain in old business

4. Proposed rules re: electronic signatures (Jim Jones/Troy Sellars)

Occasional abuse of electronic signatures. So, began to review the rules. Maybe they don't even permit electronic signatures. Suggesting to tighten the rules for electronic signatures. And, what is the proper way to demonstrate you have the client's consent to use the electronic signature. Rule 1008 is the relevant federal rule. The concern is to address situations where Debtors need to verify documents.

Other example is documents that merely require consent. You wouldn't necessarily need the debtor's signature, but you would need the debtor's permission/consent to do it. Amended plan for example.

We want to make sure that when a signature is fixed to a document, the attorney has authority to do it.

Perhaps a review of the 7-year retention policy. Most agreed that holding every document for 7 years seems excessive.

To remain on the agenda for next meeting.

5. Increase in the Presumptively Reasonable Fee under Local Rule 2016-2(c) (Jim Jones)

Chuck would like to consider updating the fee to \$4,500 as the presumptively reasonable fee. Since the last fee was established in 2014. Chuck believes the market is now ready for the increase.

Dave Harris would like to re-evaluate what the presumptively reasonable fee covers. Revisit this item at next meeting. Possible report within 3 months.

FUTURE MEETING DATE(S): May 28, 2020 at 3:00 PM

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