

## Minutes of the January 13, 2010 Meeting of the LAC

Judges in attendance: Chief Judge Judith H. Wizmur, Judge Ferguson

### 1. Preliminary Matters:

Jaimie Finberg opened the meeting with the approval of the minutes from the September 9, 2009 meeting. Minutes approved.

### 2. Committee Reports:

a. Chapter 13 Sub-committee: Marie-Ann Greenberg proposed that the Standard Debtor Attorney fee and Updated form Plan be submitted to the Board of Judges for review. Suggestions for minor changes to both were made. The sub-committee agreed to review changes and submit a final form to the Board of Judges. The Notice of Final Cure process was discussed by Chief Judge Wizmur and it was agreed that the sub-committee would review this matter further and report back. Marie-Ann also reported on the use of Interim Confirmation Orders.

b. Chapter 11 Sub-Committee: Valerie Hamilton

(1) **Local Form 7:** The Chapter 11 subcommittee recommended that a revised Local Form 7 be presented to the Board of Judges for approval, and that was done.

(2) **Electronic filing of subsequent distribution reports:** LBR 3021(d) provides that only the initial distribution report be filed with the Court, but that reports of subsequent distributions not be filed but served upon certain parties in interest. The Committee stated its preference to have subsequent distribution reports filed with the Court, noting that the ban on filing such reports was probably left over from the time when pleadings were filed in hard copy and closed files were stored in remote physical locations. Thus, there was significant cost and administrative burden in retrieving court files to include subsequent distribution reports. A discussion ensued regarding the ability to file distribution reports in a closed case. Judge Ferguson noted that the Administrative Office of the Courts probably would disapprove of the filing of documents in closed cases. Valerie Hamilton noted that LBR 3021(d) required the filing of the initial distribution report, regardless of the closed status of a case, making the issue one of degree of breach of the prohibition against filing documents in closed cases.

(3) **Increasing compliance with LBR 3021(d):** The subcommittee also noted the lack of compliance with LBR 3021(d), since the failure to file an initial distribution report does not trigger any action by the Court. Ways of improving compliance were discussed, including having judges include reference to LBR 3021's requirement to file an initial distribution report in a plan or confirmation order, modifying the Chapter 11 form plan to include reference to LBR 3021(d), and for the US Trustee's Office to note the omission of a reference to the initial distribution report in an objection that the UST's Office was otherwise already going to file for unrelated reasons.

- c. Local Rules Sub-Committee: Jeanne Naughton. Guidelines for Standing Orders in Bankruptcy Courts - Judge Wizmur referenced recent Guidelines issued by the Committee on Rules of Practice and Procedure dealing with application of the current Standing Order Guidelines to Bankruptcy Courts. These Guidelines are under consideration for approval by the Judicial Conference. Supplemental Guidelines recognize a specific need for flexibility in the bankruptcy courts. In light of this recent guidance, at the suggestion of Judge Wizmur, a subcommittee of LAC members was formed to review current General Orders and determine whether any are better suited for local rule(s). There was a brief discussion of the evolution of General Orders in the Court including, after many years of refraining from their use, the recent revival necessitated by CM/ECF and the need for a General Order adopting Administrative Procedures. The Subcommittee will meet and advise a plan and a time line for going forward with this project.
3. Clerk's Report. Jim Waldron was not present. Judge Ferguson gave a brief update on the filing statistics.
4. Liaison Report. Only report was from U.S. Trustee's Office. Robert Schneider
5. New Business: Charles Forman raised an issue about how to keep large chapter 11 cases in New Jersey. This issue was discussed and determined that this was not an issue for the LAC.
6. Next meeting: March 10, 2010.