

Lawyers Advisory Committee Meeting Minutes

Date of Meeting: June 11, 2014

Location of Meeting: Seasons 52 Restaurant
Edison, NJ

Members in Attendance: Honorable Gloria M. Burns, Chief Judge, Honorable Katherine C. Ferguson, Honorable Christine M. Gravelle, Honorable Andrew B. Altenburg, Jr., Mark Hall, Chair, William Mackin, Vice-Chair, James Waldron, Jeanne Naughton, Carrie Boyle, Ramanjit K. Chawla, Robert Schneider, Al Russo, Brian Nicholas, Catherine Youngman, Shoshana Schiff, and Louis A. Modugno. Special Guest attendee: Mo Wong.

1. Welcome and Opening Remarks: Chair Mark Hall welcomed all members to the meeting and reported approval of the 4/29/14 Meeting Minutes, with one minor correction, by way of the negative notice procedure. Chief Judge Burns provided opening remarks to welcome and thank everyone for attending.

2. Chapter 11 Subcommittee Report: Mark Hall, reporting for Michael Viscount, Chapter 11 Subcommittee chair, noted that while there was nothing new to report, the Chapter 11 Subcommittee will be looking at the following two issues for discussion at the next meeting: (1) should the D.N.J. follow the model set by the N.D. Cal. Bankr. Court and include both general and detailed Instructions to better utilize our form Small Business and Individual Combined Chapter 11 Plan/DS; and (2) should the D.N.J. adopt a local rule or another mechanism providing that a debtor's satisfactory submission of the Small Business Combined Chapter 11 Plan/DS results in approval of the disclosure portions, in accordance with Section 1125(f)(2), allowing for immediate scheduling of a confirmation hearing?

3. Chapter 13 Subcommittee: Albert Russo, Chapter 13 Subcommittee chair, reported that the Subcommittee recommended that the following 3 items be forwarded to the Board of Judges for consideration: (1) adoption of a \$1,500 "no-look" fee for loan modification services (\$1,800 if plan modification is also involved); (2) the new Chapter 13 Plan transmittal letters; and (3) the forms for relief from the stay by self-represented litigants involved in matrimonial matters interrupted by bankruptcy filings. There was discussion about all 3 items followed by a unanimous vote approving them to be forwarded to the Board of Judges for consideration. The proposed forms would also be considered by Jeanne Naughton and Judi LeCompte to review for consistency with existing forms.

4. Local Rules Subcommittee Report: Catherine Youngman, the Local Rules Subcommittee chair, reported that the Local Rules Subcommittee was waiting for feedback from Charles Forman to better understand the request to promulgate a new Local Rule similar to Delaware Bankruptcy Court's Rule 9010-1(d), allowing counsel 30 days to apply for retention approval in response to a perceived increase in retention and fee objections in New Jersey when professionals are not retained the same day they begin work on the matter. The

Subcommittee also discussed the desirability of establishing the minimum level of services that should be included in the flat fee representation of a consumer chapter 7 debtor and the appropriate methodology. There was preliminary discussion illustrating the problems to be addressed by adoption of such standards and exposition of the different methods adopted by other Districts to implement such standards. The Subcommittee will prepare an informational memorandum on these topics for the next meeting.

5. Bylaws Subcommittee: Carrie Boyle, Bylaws Subcommittee chair, presented the Subcommittee's proposals for revisions to the LAC's Bylaws. After discussion, the Committee, by a vote of 7-1, established that each member could serve two consecutive terms of three years each. Other suggested revisions to the LAC's Bylaws were also approved by the Committee, including: (1) the terms of the Chair and Vice Chair would be set at 2 years each; (2) the Vice Chair would automatically succeed the Chair; (3) the Chief Judge would nominate the Chair and Vice Chair to fill vacancies in either position; (4) clarification of the Liaison positions; and (5) clarification of the voting rights of Liaison positions. The LAC unanimously approved that the revised LAC Bylaws be transmitted to the Board of Judges.

6. Legislative Subcommittee Report: Brian Nicholas, Legislative Subcommittee chair, reported that the adoption of a proposed National form chapter 13 plan has been delayed for at least two years to allow further discussion about its provisions.

7. Board of Judges Updated: Chief Judge Burns introduced the Honorable Andrew B. Altenburg, Jr. as the newest member to the District's bankruptcy bench and announced that Judge Altenburg's ceremonial swearing in will take place on June 16, 2014 at 4:00 p.m. in Camden with all welcome to attend. Judge Burns provided a reminder that there will be a memorial ceremony for Judge Morris Stern at the Courthouse in Newark on Friday June 20, 2014 at 2:00 p.m.

8. Local Rules Revision Committee Update: Judge Ferguson reported that the Local Rules Revision Committee had, after more than two years, completed the first phase of its task. The Local Rules Revision Committee has considered all suggested revisions to all of the Local Bankruptcy Court Rules, including recommendations to delete certain existing rules and to adopt certain new rules. A "sweeper" or clean-up committee is now reviewing all submissions for grammar, uniformity, internal consistency and consistency with other applicable rules and forms before forwarding them to the Board of Judges for further consideration and review. After all of the draft Rules have been approved by the Board of Judges, the next phase of the implementation begins, including a public comment period. Judge Ferguson anticipated that full implementation of the revised Local rules was about a year away.

9. Status Report on Website Update: Stacey Meisel, Website Subcommittee chair, was not present. Shoshana Schiff and Mo Wong reported that the most recent LAC meeting minutes are now on the Bankruptcy Court website as well as on the LAC's LinkedIn page. The LAC's LinkedIn page will remain a closed group for the time being so that its functionality may be tested before being opened up to practitioners. All Committee members with LinkedIn

accounts were encouraged to become members of the LAC's LinkedIn page to assist in the closed group testing.

10. Clerk's Office Report: Jim Waldron noted that bankruptcy filings continue to decline compared to last year, but as of yet, the decline had not required any further staffing cuts. Jim and Mo Wong also reported that the Next Gen software to replace the Court's current CM/ECF electronic filing and reporting software will be implemented in early 2015 and our District will be a pilot District for its implementation.

11. Liaison Reports:

- a. **District Court:** Shoshana Schiff reported on certain bankruptcy fraud prosecutions currently being undertaken by the United States Attorney.
- b. **US Trustee:** Robert Schneider, reporting for Martha Hildebrandt, reported that regional training for Chapter 7 Trustees and Chapter 13 Trustees in Harrisburg, PA had recently been completed. There was discussion about including positive reports in a newsletter to highlight the Office's successful accomplishments as well its prosecutions for fraud and bankruptcy crimes. There was discussion about the LAC looking into publishing or helping to publish a newsletter to aid in highlighting the Court's accomplishments. Chair Mark Hall suggested forming a subset within the Website Committee to study this issue.
- c. **IRS:** Chair Mark Hall reported that Wendy Gardner would no longer be a participating member of the LAC because the US Attorney's office will now be representing the IRS in bankruptcy matters. As a result, Tony LaBruno, Jr. will be joining the LAC as the IRS Liaison. Members of the Committee commented on Wendy's tremendous contributions to the LAC over the years and the fact that Tony previously served on the LAC and that member were very much looking forward to his return to the LAC.
- d. **New Jersey Attorney General:** Ramanjit K. Chawla reported that her office continues to successfully handle the bankruptcy matters and invited direct contact with her or someone in her office to discuss all such matters.
- e. **New Jersey State Bar:** Chair Mark Hall, reporting for Jerry Poslusny, reported that this year's Bench Bar Conference was well attended and a great success. Next year's conference, to be organized by Jaimie Finberg, is tentatively scheduled to place on May 1, 2015.

12. New Business:

- a. **Subcommittee assignments.** Chair Mark Hall submitted a proposed list of the chairs and members for each Subcommittee. Mark will revise the list to include Carrie Boyle as a member of the Chapter 13 Subcommittee and will submit a final list, with any other necessary corrections, for approval by email through the negative noticing procedure.
- b. **Forms on Website.** The following issues were not addressed and will be held for discussion at the Fall meeting: (1) The Clerk's Office ability to make all forms on the website available via Word/Word Perfect; and (2) embedding all forms on the Court's website.
- c. **Local Rules Format.** The following issue was not addressed and will be held for discussion at the next meeting: including a hyperlinked table of contents for our Local Rules on the Court's website.

13. Next Meeting Date: Date, Time and Location TBD (likely late September 2014)

14. Motion to Adjourn: Made and seconded. Motion unanimously approved. Meeting adjourned.