

Minutes of Lawyers Advisory Committee – February 27, 2012, 6:00 p.m.

Location – Paulie’s Anna Rose, West Trenton, New Jersey

Members Present – Warren J. Martin, Chair; James J. Waldron, Scott Little, Jeanne Naughton, Chris Gravelle, Henry Karwowski, Ellen McDowell, Mariah Murphy, Herb Raymond, Brian Nicholas, Hon. Kathryn C. Ferguson, Hon. Raymond T. Lyons.

I. Warren Martin brought the meeting to order and Chris Gravelle moved for acceptance of the minutes for the January 31, 2012 meeting. The minutes were approved by a vote of the LAC.

II. Chapter 13 Subcommittee Report – Herb Raymond, Chair

a. Proposed addition to Local Rule: 3002.1 (regarding payment changes and notice of fees when the stay is not in place or when a stay has been reinstated). Jeanne Naughton noted that the old plan provided more detailed notice. She will work with Herb to incorporate the additional notice provisions in the proposed rule and make an effort to get it finalized prior to the March 15 Board of Judges meeting. If it is not finalized before submission to the Board of Judges, it will be considered by the newly formed Rules Committee.

Ellen McDowell moved to approve the Rule as set forth on the attached Exhibit A, including provisions regarding notice to be added. Henry Karwowski seconded the motion. The LAC approved the motion.

b. Proposed Chapter 13 Plan amendments. The LAC noted that most people are satisfied with the content of the existing form plan but the changes have been suggested to address those few situations where special circumstances must be addressed, to address the failure of many debtors to properly complete the form plan, and to include information regarding loan modification. Herb Raymond explained the changes made to the form Chapter 13 Plan, many of which are stylistic to highlight those parts of the plan that are often ignored by practitioners. The proposed plan also adds an additional section for “other plan provisions” and adds an informational section as to the status of a loan modification or loss mitigation program, if any. The LAC suggested that an explanation be added to the form regarding the circumstances pursuant to which the debtor should note his or her intention to make regular monthly payments pending the loan modification process. Brian Nicholas noted that, with information disclosed regarding loan modification, secured creditors could rely on deadlines for loss mitigation provided by the debtor to keep track of the debtor’s progress with submissions. This would prevent debtors from using loss mitigation as a delay tactic. Chris Gravelle moved to submit to the Board of Judges, the proposed changes to the Chapter 13 Plan, with the additional change to provide an explanation as to when it is appropriate to complete Part 1d. (Part 1d should not be checked if the

borrower is participating in the bankruptcy court loss mitigation and therefore paying 60% of the monthly mortgage payment). The LAC approved the motion.

- c. Herb summarized the work of the Chapter 13 Subcommittee for the LAC. The subcommittee spent a great deal of time discussing Rule 1019, loss mitigation procedures, and amendments to the Chapter 13 Plan. They will continue to work on a Chapter 13 transmittal letter, a form order for loan modification, and supplemental fees associated with applications on short notice, among other things. The subcommittee has already submitted a form Application to Discharge Lien with a form order, along with the major changes to the Chapter 13 Plan, to the Board of Judges for their consideration.

Warren Martin thanked Herb Raymond and his subcommittee for their hard work and commended him on his ability to provide a forum to fully vet arguments and differing opinions and still reach a consensus that produced a wonderful product.

III. Ad Hoc Mediation Program Review Committee Report - Mariah Murphy, Chair

The Ad Hoc Committee was asked to highlight issues to be considered regarding the Bankruptcy Court's mediation program. Her report is attached as Exhibit B and addresses the following issues: mandatory mediation; appointment, compensation, and training of mediators; assigning and tracking mediation; and funding. Mariah noted that a majority of respondents to surveys submitted to the court preferred mandatory versus voluntary mediation. The LAC discussed the timing of mandatory mediation noting that many adversary proceedings will settle without the need for mediation. It was suggested that mediation not be made mandatory until a certain period following the filing of the complaint, certainly not until after the Rule 26 exchanges are completed. The LAC also discussed the use of an application process to opt out of a mediation. Mariah noted that the attached report will be presented to the Board of Judges along with the suggestion that mandatory mediation include a simple opt out provision.

IV. Local Rules Subcommittee Report - Henry Karwowski, Chair

Henry noted that his subcommittee's work this past year addressed more concerns raised by members of the Bar than it had in the past. He sees the involvement of the Bar in the LAC's purpose expanding. The LAC discussed the interface between the Local Rules Subcommittee and the newly formed Rules Review Committee chaired by Judge Ferguson. The LAC agreed that any of its subcommittees that intend to propose a rule change should first clear the rule change with the Local Rules Subcommittee chaired by Henry. The Local Rules Subcommittee will review the proposed rule for consistencies and style with an intent to standardize all submissions to the Board of Judges. The Rules Committee and the LAC Subcommittee will work together on all rule changes.

V. Chapter 11 Subcommittee - Mark Hall, Chair

Warren Martin presented Mark Hall's report noting that Mark had received comments from the Attorney General's Office on the proposed Small Business Plan and Disclosure Statement. The LAC noted the amount of work put into the form plan by Mark and his subcommittee and expressed its desire to submit the proposed plan to the March Board of Judges meeting. Chris Gravelle made a motion to submit the proposed plan and disclosure statement with a redline copy of the Attorney General's Office comments if Mark chose to do so. Mariah Murphy seconded the motion. The LAC approved the motion.

VI. Status Report on Website Update - Stacey Meisel, Chair

Jim Waldron presented the report. The website will be used to propose anything new proposed by or to the LAC and insure that LAC activity is timely reported. Minutes from each LAC meeting will be reported as soon as possible and the Chair of the LAC is encouraged to post meeting agendas as far ahead as possible. Jim also suggested that all e-filers receive a blast of each meeting's agenda to encourage as much comment from the Bar as possible.

VII. Clerk's Report - Jim Waldron

Jim expects to receive a report on the National Pilot Project for Pro Se Filing by the end of the week. New Jersey will serve as a pilot district. In addition, the Clerk's Office has implemented a quality control system called "Case Management Assist" which will allow a transfer of responsibilities by and among team members in order to increase the productivity of the office. Finally, the Clerk's Office is working on a certification for electronic transcribers in an attempt to improve the quality of transcript preparation. Transcribers must pass a test on bankruptcy basics and proficiency in transcription.

VIII. Liaison's Reports:

- a. District Court, Mike Sirota - No report.
- b. U.S. Trustee, Roberta DeAngelis – No report.
- c. IRS, Wendy D. Gardner – No report.
- d. N.J. Attorney General, Ramanjit Chawla – No report.
- e. N.J. State Bar, Jerry Poslusny – No report.

IX. New Business – None.

X. Next Meeting Date – September 2012, exact date to be determined

The Committee thanked Warren Martin for his work as Chair for the past two years. Warren's term will expire in June and Chris Gravelle will assume the Chair. Warren noted the time, hard work, and accomplishments of the LAC over the past two years and thanked the members.