

Minutes of Lawyer's Advisory Committee Meeting

Held on 9/17/13

Location - Paulie's Anna Rose Restaurant (234 W. Upper Ferry Rd., W. Trenton, NJ)

Members in Attendance: Honorable Gloria M. Burns, Chief Judge, Honorable Katherine C. Ferguson, Honorable Michael B. Kaplan, Honorable Christine M. Gravelle, Mark Hall, Committee Chair, William Mackin, Committee Vice-Chair, Virginia Fortunato, Martha Hildabrandt, Stacey L. Meisel, Al Russo, Andrew Finberg, David G. Beslow, Brian C. Nicholas, Scott Liddle, Louis Modugno (new member), Michael Viscount, Jeannie Naughton, Carrie Boyle (new member).

Call to Order, Approval of Minutes and Welcome to New Members - Mark Hall called the meeting to order and asked for approval of the minutes from the 6/4/13 meeting. A motion to approve was made and seconded. Judge Gravelle noted some typographical errors to be corrected. The minutes were unanimously approved. Mark Hall welcomed new members Carrie Boyle and Lou Modugno and recognized the valuable contributions of departing members Henry M. Karwowski, Bruce Truesdale and Ellen McDowell.

Committee Reports and Business Updates

Chapter 11 Subcommittee, Michael Viscount, Chair, and Judge Burns reported on the progress of review of the proposed form of combined Chapter 11 individual Plan and Disclosure Statements. The Board of Judges met in June where the form was reviewed. The form is now back with the committee for consideration of suggested revisions by the State of NJ and to consider the method of implementation, whether by local rule or whether on a case-by-case basis. The subcommittee will discuss this issue further at its next meeting, with the objective of providing a revised form and suggestion for implementation to the Board of Judges prior to the BOJ's December 2013 meeting. Judge Burns asked Mark Hall to provide the BOJ with his memorandum of research regarding the existence of authority to combine a Plan and Disclosure Statement into a single document in individual Chapter 11 cases. Judge Burns will share that memorandum with the BOJ in anticipation of further consideration once the committee returns the proposed form to the BOJ. New member Lou Modugno was assigned to become a member of the Chapter 11 Subcommittee.

Chapter 13 Subcommittee, Al Russo, Chair, noted that practitioners should be made aware of the new form of Chapter 13 plan transmittal letter. He also noted that discussion about modification to the payment letter has been tabled for lack of interest but discussion may be revived. The Committee is also considering the propriety of instituting a no-look fee for loss mitigation services and the appropriate amount of a no-look fee. The Committee will attempt to survey those practitioners who regularly undertake loss mitigation work for estimates of the appropriate level of the no-look fee. Jeannie Naughton indicated that the Western District of Pennsylvania has a no-look fee of \$1,000 and that she would provide the Subcommittee with a survey from the Southern District of Florida on this issue. Al further noted that the comment period for proposed national rules changes expires in 2/14, that the Chapter 13 Trustees have already provided their comments and urged other practitioners and their organizations to do the

same. Jeannie will ask the American Bankruptcy Inn of Court, New Jersey, to highlight the issue for their members. Chief Judge Burns indicated that she thought it was time for another meeting with practitioners to assess the loan modification program. New member Carrie Boyle was assigned to become a member of the Chapter 13 Subcommittee.

Local Rules Subcommittee, Mark Hall made the report in the absence of former Chair Henry Karwowski. Mark noted Henry's departure and recognized Henry's excellent work on the LAC. Mark solicited the membership to contact him if they had interest in filling Henry's role as chair of this committee. Chief Judge Burns indicated that discussion of the Stern v. Marshall issue has been deferred at the BOJ until the national rules have been promulgated.

Board of Judges Update - Chief Judge Burns indicated that the BOJ had a meeting this past Thursday, and are waiting for the revisions to the proposed combined Chapter 11 plan and disclosure statement in individual cases from the Chapter 11 subcommittee. The BOJ will be discussing the approval of revised mediation procedures, soliciting mediation panel members and establishing mediation training requirements at its next meeting. Mediation is likely to be mandatory for all adversary proceedings with an opt-out provision in the procedures. The BOJ is also still discussing the loss mitigation program. Chief Judge Burns took the opportunity to also thank the parting members of the LAC.

Clerk's Report - Jeannie Naughton (in the absence of Jim Waldron) thanked those who prepared the form certification to cancel liens and indicated that the COANJ had favorably reviewed the form. Jeannie and Scott Liddle noted that filings are down and that the Clerk's Office budget is negatively affected thereby. As for the national rules revision, Jim Waldron is a member of the committees, and would like the LAC to get the word out about the importance of submitting comments before the 2/14 deadline.

Formation of New Committee - A new Legislative Subcommittee was formed to divide up the proposed national rule revisions for review and potential comments by the LAC. The new subcommittee will be chaired by Brian Nicholas with Judge Gravelle, Al Russo, Stacey Meisel, Shoshana Schiff, and Lou Modugno as members.

Local Rules Committee Update - Judge Ferguson reported that work is proceeding apace and she currently estimates March 2014 as the time by which a first draft of the revised rules will be available for circulation, review and comment.

Status Report on Website Update - Stacey Meisel advised that there is discussion about making the website more user friendly for loss mitigation and LAC activity including the posting of the LAC meeting minutes. Discussion ensued about the propriety of implementing an LAC Twitter account that practitioners could subscribe to. Dave Beslow will put together a Twitter demonstration for the next LAC meeting and Judge Ferguson will ensure the appropriate A/V equipment is available for the demonstration. Jeannie Naughton noted that some courts already have a Twitter feed as well as chat rooms. There was additional discussion of possibly setting up an LAC Facebook or LinkedIn page.

Liaison Reports

District Court - The District Court historical society will honor all District Judges on 9/26/13 at 4:30 p.m. at the District Courthouse in Trenton and all were encouraged to attend.

United States Trustee - Martha Hildabrandt indicated that fee guidelines would be published in November and that the US Trustee's Office welcomes invitations to speak at events about the guidelines.

IRS - No report.

State of New Jersey - No report.

N.J.S.B.A. - The State Bar dinner honoring Judges Lyons and Gravelle will be held on 11/4/13. The date for the Bench Bar Conference will be 5/9/14.

Old Business

A discussion on the mediation program had taken place earlier in this meeting.

New Business

Several new business issues were preliminarily raised by Mark Hall, but were tabled until the next LAC meeting to permit subcommittee chairs to review, meet with committee members and report in time for the next LAC meeting.

Next Meeting. The LAC will look to hold its next meeting in January 2014. Exact date yet to be determined.

Motion to Adjourn. A motion to adjourn was made and seconded. The motion was unanimously approved and the meeting was adjourned.