

## Minutes of Lawyers Advisory Committee Meeting

**Date of Meeting:** April 9, 2014

**Location of Meeting:** Paulie's Anna Rose Restaurant  
West Trenton, NJ

**Members in Attendance:** Honorable Gloria M. Burns, Chief Judge, Honorable Katherine C. Ferguson, Honorable Christine M. Gravelle, Mark Hall, Jeanne Naughton, Carrie Boyle, Ramanjit K. Chawla, Jerry Poslusny, Robert Schneider, Al Russo, Brian Nicholas, Ginny Fortunato, Andrew Finberg, Shoshana Schiff, Stacey Meisel and William Mackin. Special Guest attendee: Mo Wong.

**1. Welcome and Opening Remarks:** Chair Mark Hall welcomed all members to the meeting and reported that the following three (3) items of business had been accomplished between the 1/28/14 meeting and tonight's meeting by way of the new negative notice procedure:

- a. Approval of the form Combined Individual Chapter 11 Plan and Disclosure Statement;
- b. Approval of the 1/28/14 Meeting Minutes; and
- c. Approval of minor changes to the form Chapter 11 Plan and form Disclosure Statement.

**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 June 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?

Chief Judge Burns expressed the Board of Judges' thanks for all of the Subcommittee's hard work in preparing the form Combined Individual Chapter 11 Plan and Disclosure Statement and indicated that she will sign a General Order to allow use of the form to bridge the gap until a local rule can be adopted authorizing its use.

**3. Chapter 13 Subcommittee:** Albert Russo, Chapter 13 Subcommittee chair, provided a status report on the discussion concerning the desirability and amount of a "no-look" fee for loan modification services. The Subcommittee recommended a \$1,500 no-look fee which would increase to \$1,800 if a modified plan is required to be filed along with mortgage modification. Mr. Russo reported that the Subcommittee came to these

recommendations based on a survey e-mail blast by the three Standing Chapter 13 Trustees to local practitioners as well as discussions with local attorneys involved in Chapter 13 practice. Mr. Russo also reported that the forms of the new Chapter 13 Plan transmittal letters were moving ahead, including changes to the letter for cases involving loans secured by motor vehicles affected by a proposed Chapter 13 Plan. Finally, Mr. Russo reported that the Subcommittee is working on forms for relief from the stay by pro se litigants involved in matrimonial matters interrupted by bankruptcy filings.

**4. Local Rules Subcommittee Report:** Mark Hall reported in place of Catherine Youngman, the Local Rules Subcommittee chair. The Local Rules Subcommittee will consider a 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 very same day they start their work. Preliminary discussion at the meeting questioned the need for such a rule since retention applications are granted *nunc pro tunc* to the date they are filed and the Third Circuit has binding case law setting forth the requirements for obtaining approval of requests for payment for services provided prior to the filing of the retention application on a *nunc pro tunc* basis.

**5. Legislative Subcommittee Report:** Brian Nicholas, Legislative Subcommittee chair, reported that the National Bankruptcy Rules approval process continues and he will keep the Committee advised of the next meetings and anticipated next round of changes.

**6. Bylaws Subcommittee:** Carrie Boyle, Bylaws Subcommittee chair, reported that the Subcommittee reviewed and commented on the existing bylaws, and plans to propose suggested revisions and a revised mission statement for the Committee. Ms. Boyle reported that the Subcommittee anticipates having a first draft work product ready for review prior to the Committee's next meeting in June.

**7. Board of Judges Updated:** Chief Judge Burns noted that the final form Combined Individual Chapter 11 Plan and Disclosure Statement will be uploaded to the Court's website very soon, along with the General Order bridging the gap between the implementation of a Local Rule authorizing use of the form. Chief Judge Burns also reported that presumptive mandatory mediation will begin with all adversary proceedings filed after 5/1/14 with Judge Michael B. Kaplan as the Mediation Program Coordinator. Mediators have been selected and are going through training in anticipation of the rollout of the program. Provision will be made for discussing the mediation program at this year's Bench-Bar Conference in May.

**8. Rules Committee Update:** Judge Ferguson reported that the Rules Revision Committee was nearly at the end of phase 1 with a final meeting planned in June 2014. Those new proposed Rules which have already been cleared by the Rules Revision Committee are presently being submitted to the Board of Judges in two (2) week increments while a "sweeper" committee is working on uniformity. 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.

**9. Status Report on Website Update:** Stacey Meisel, Website Subcommittee chair, reported that LinkedIn appears to be the best social media platform for the LAC's use (as opposed to Twitter and Facebook). A demo page has already been established for the LAC to test out capabilities and functionality. Further issues need to be explored including disclaimers, consideration of account managers and appropriate content. Special guest Mo Wong provided the Committee with a review of the demonstration page.

**10. Clerk's Office Report:** Jeanne Naughton, reporting for Jim Waldron, noted that bankruptcy filings continue to decline. Ms. Naughton noted that the DNJ leads the way in implementing an electronic self representation project in the Bankruptcy Courts. Further, she reported that the next generation of CM/ECF will be coming in 2015 and New Jersey will take a leading role in the roll out.

Ms. Naughton also noted that on 4/29/14, there will be a memorial for the late Judge William F. Tuohey in Judge Steckroth's Courtroom in Newark. Chief Judge Burns, Judge Gambardella and Jeanne Naughton, among others, plan to make remarks in honor of Judge Tuohey. An attorney conference room will be dedicated to Judge Tuohey's memory.

Ms. Naughton also reported that there will be a memorial for Judge Morris S. Stern in June 2014, although the exact date has not been finalized.

Further, Ms. Naughton noted that the NJBLF golf outing is scheduled for 6/9/14.

**11. Liaison Reports:**

- a. **District Court:** Shoshana Schiff reported that the District Court LAC met in March. The United States Attorney is still gathering the bankruptcy fraud prosecution numbers for our review. Ms. Schiff reported that the District Court LAC sent a letter to Judge Stern's widow. Mark Hall drafted a letter from the Bankruptcy Court LAC to the widows of Judges Stern and Brotman expressing our sincere regrets. Chief Judge Burns reviewed the letters and indicated that they were moving and thanked Mark Hall for drafting them. In turn, Mr. Hall thanked Ms. Schiff for the suggestion and the District Court LAC generally for the inspiration.
- b. **US Trustee:** Robert Schneider, reporting for Martha Hildebrandt, reported that between now and the next LAC meeting there will be regional training for Chapter 7 Trustees and Chapter 13 Trustees in Harrisburg, PA.
- c. **IRS:** Wendy Gardner. No report.

- d. **New Jersey Attorney General:** No report.
- e. **New Jersey State Bar:** Jerry Poslusny reported that the Bench Bar Conference will take place on 5/9/14 and that Troy McKenzie is the guest speaker who will discuss the Stern v. Marshall and Executive Benefits cases. Mr. Poslusny noted that there will be 12 panels at the Conference. Mr. Poslusny also reported that the Bankruptcy Section of the New Jersey State Bar needs 2 new officers and solicited suggestions for qualified candidates from the Committee.

**12. New Business:**

- a. **Subcommittee assignments.** Mark Hall asked those who have not yet contacted him to indicate their subcommittee assignment preferences. He will review the composition of the subcommittees to make sure that no one is being asked to do too much and that everyone is on a subcommittee(s) that best fits their desires.
- b. **Forms on Website.** Questions were raised about the ability to have the Clerk's Office make all forms on the website available via word/word perfect. It was decided that this issue should be tabled for a future meeting after the Local Rules Revision Committee has completed its work in revising the local rules and the local forms.
- c. **US Trustee Fee Guidelines.** There was a discussion centered around the possibility that the LAC publicize the new US Trustee fee guidelines through the proposed Linked In account as part of ways in which the LAC can use social media tools to educate the Bar.
- d. **Local Rules Format.** An issue was brought to the LAC about including a hyperlinked table of contents for our Local Rules on the Court's website. It was decided that this discussion should also be tabled until the Local Rules Revision Subcommittee has completed its work. However, Mr. Wong agreed to look into this issue in the meantime.

**13. Next Meeting Date:** 6/11/14 @ 6:00 p.m. (location TBD).

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