

## **Minutes of Lawyers Advisory Committee Meeting**

**Meeting Date:** December 7, 2016

**Meeting Location:** Forsgate Country Club, Monroe Township, NJ

**Members in Attendance:** Hon. Kathryn C. Ferguson, Chief Judge U.S. Bankruptcy Court, Hon. Christine M. Gravelle, William Mackin, Chair, Catherine Youngman, Vice Chair, Jeanne A. Naughton, Deputy Clerk US Bankruptcy Court, Robert J. Schneider, US Trustee's Office, Isabel C. Balboa, Standing Chapter 13 trustee (Camden Vicinage), David G. Beslow, Carrie J. Boyle (Newsletter Subcommittee Chair), Michael E. Brown, E. Richard Dressel, Andrew B. Finberg (Chair, Consumer Bankruptcy Subcommittee Chair), Karina Pia Lucid, Eamonn O'Hagan, Cassandra Porter, Shoshana Schiff (Local Forms Subcommittee Chair), and Ross J. Switkes.

**Call to Order:** Meeting called to order at 6:16 p.m.

**Quorum:** Chairman William Mackin reported the existence of a quorum to conduct business.

**I. Welcome, and Administrative Update** – The September 14, 2016 Meeting Minutes had been reviewed, approved, and posted on Court website. The LAC's 2017 Meeting Schedule will be: (a) March 8, 2017; (b) June 7, 2017; (c) September 13, 2017; and (d) December 6, 2017.

**II. Commercial Bankruptcy/Chapter 11 Subcommittee Report** – Morris Bauer, Chair (absent) submitted a written report indicating that the Subcommittee is still in the process of analyzing whether the District of New Jersey should consider a rule similar to Delaware Rule 3017-2, which provides for a combined hearing on approval of disclosure statements and confirmation of plan in a liquidating chapter 11 case. The "November 16 2016 Notice to E-Filers" mooted the Subcommittee's concerns about who receives "notice" of the filing of new local form "Chapter 11 Individual Debtor's Certification of Completion of Plan Payments and Notice to Creditors" since it must be served on all creditors, accompanied by a certification of service and creditors would be afforded an objection period and a hearing, if necessary. Finally, the Subcommittee started a preliminary discussion regarding "Small Business Cases" and issues pertaining to such, including (i) determination of what is a "Small Business Case", what if the Debtor does not check the box; however, all of the numerics fit within the description of a "Small Business Case"; (ii) timelines set by the code and the repercussions if the plan is not confirmed within the timeline set forth in the code, i.e. is it automatically dismissed or a motion needs to be filed; (iii) formation of a committee.

**III. Consumer Bankruptcy Subcommittee Report** – Andrew Finberg, Chair submitted a proposal by the Subcommittee to amend D.N.J. LBR 2016-5 related to compensation in chapter 13 cases. After full discussion the proposal was referred back to the Subcommittee to

address a few minor amendment considerations. Once those discussions are completed the revised proposal will be sent out for a negative notice procedure vote as to whether or not it should be submitted to the Board of Judges for consideration.

**IV. Local Rules Subcommittee Report** - Catherine Youngman, Chair reported that the Subcommittee continues to discuss motions to reinstate cases and the need for a local rule fixing the time limit for consent to jury trials in the Bankruptcy Court under Fed.R.Bank.P. 9015(b). Reporting as a member of the Third Circuit LAC, Ms. Youngman noted that the Third Circuit Conference is scheduled for April 19-21, 2017 in Lancaster, PA. Ms. Youngman also noted that there is still a pressing need for a Local Rule related to “best practices” in chapter 7 consumer cases. The Subcommittee welcomed the invitation to send a few members to attend the February 2017 Board of Judges meeting to further discuss the proposals previously submitted on these matters.

**V. Local Forms Subcommittee Report** – Shoshana Schiff, Chair reported the Subcommittee’s formal proposal to opt-out of the National chapter 13 plan form and presented a revised version of the local form chapter 13 plan that would comply with the opt-out requirements of Fed.R.Bankr.P. 3015.1. Ms. Schiff formally proposed adoption of the revised local chapter 13 plan for use in the District. Ms. Schiff also presented a revised version of the local form chapter 13 plan transmittal notice and proposed adoption of this revised local form for use in the District. General discussion resulted in several amendments to both forms which were adopted without opposition. Upon formal vote the LAC unanimously: (a) adopted the recommendation to opt-out of the National chapter 13 plan form; (b) approved the amended revised version of local form chapter 13 plan; and (c) approved the amended revised version of local form chapter 13 plan transmittal notice. Voting included 6 proxy ballots from absent members. Ms. Schiff would make the amendments adopted at the meeting, and then transmit the final versions of each form to Chairman Mackin for submission to the Board of Judges. Finally, the Subcommittee will review the suggestion for a Standard form of loan modification order for use within the District.

**VI. Newsletter Subcommittee Report** – Carrie Boyle, Chair reported that the next edition of The Absolute Priority newsletter should be ready for publication soon. This issue will focus on retiring Clerk of the Court James Waldron, the LAC and its history, and the work ahead of the LAC in 2017. Ms. Boyle noted that additional submissions are always welcome.

**VII. Board of Judges Update** – Honorable Christine M. Gravelle, USBJ reported that the Board accepted proposed Local Rule 3007-2 (Omnibus Claims Objections) with some minor revisions. Board discussion on proposed Local Rules 2016-6, 2016-7, 2016-8 and 2016-9 (Minimum Consumer Chapter 7 Debtor Counsel Duties and Use of Outside Contract Counsel) has been tabled. The Board invited Chairman Mackin, Vice-Chair Youngman and one or more LAC representatives to the Board’s February 2017 meeting for a joint discussion on these proposals.

**VIII. Clerk's Report** – Jeanne Naughton reported that bankruptcy filings and court staffing and funding remain flat - roughly equal with last year's statistics. Jim Waldron will officially retire on January 3, 2017. The local rules making cycle begins in March 2017.

**IX. Liaison Reports**

**A. District Court** – Shoshana Schiff reminded all members of the District Court Holiday Party at Jasna Polana on December 15, 2016. She reported the great success of the discussion panels on Bankruptcy and Taxes.

**B. US Trustee** – Robert Schneider indicated that there was no formal report.

**C. IRS** – Eamonn O'Hagan reported that he, Ramanjit Chawla and other panelists would reprise their discussion on Bankruptcy and Taxes at the 2017 Bench-Bar Conference.

**D. N.J. Attorney General** – Ramanjit Chawla was absent.

**E. NJ State Bar** – Michael Brown reported that the Bench Bar Conference will take place at the Hilton Hotel East Brunswick, NJ on March 10, 2017. Topics and Panels have been selected.

**F. Federal Bankruptcy Bar Assoc. of New Jersey** – Mark E. Hall was absent.

**X. Old Business** – Chairman Mackin referred to the Local Rules Subcommittee the task of determining whether a new local rule was needed in light of the fact that National Rule 3002.1 was in the process of being amended to allow Districts to enact rules that would direct HELOC lenders how and when to send payment change notices.

**XI. New Business** – None

**XII. Next Meeting Date** – March 8, 2017 - Location TBD

**XIII. Motion to Adjourn** - motion made, seconded and unanimously approved.