

**United States Bankruptcy Court
District of Rhode Island**

Minutes of January 24, 2013 Meeting of the Attorney Advisory Committee

The meeting of the Bankruptcy Court's Attorney Advisory Committee was held at the Clerk's office on Thursday, January 24, 2013 at 3:30 p.m.

<u>Attendance:</u>	Patricia Antonelli	John Boyajian
	Thomas Carlotto	Gary Donahue
	Stacy Ferrara	Wayne George
	Lisa Geremia	Janet Goldman
	Kevin Heitke	Christopher Lefebvre
	Elizabeth Lonardo	Charles Pisaturo
	Russell Raskin	

<u>Court Staff:</u>	Hon. Diane Finkle	Susan Thurston
	Jimmy Dahu	Jordan Baumer
	Gail Kelleher	Amy Seale

- 1. Introduction:** The meeting was called to order by Susan Thurston, Clerk of Court. Court staff were introduced and new members of the committee welcomed.

Old Business:
None.

New Business:

- 2. Current Proposed Local Rule Amendments Effective 1/28/13:** The comment period has expired and no comments were received. Judge Finkle stated that there has been a positive change in service since the mailing list requirement was implemented. Susan asked for feedback from the group; Pat Antonelli suggested clarification regarding the name of mailing labels by case.

ACTION ITEM: Clarify the title of Mailing Labels by Case as a report in ECF and its location.

The group also discussed the change to Rule 1005-1 regarding late-filed documents. Judge Finkle stated that the change is necessary because deadlines are frequently being ignored and Gary Donahue commented that this change is consistent with how Massachusetts handles late filings.

- 3. Local Rule and Forms Review:** Judge Finkle briefly discussed some additional rules that require some technical or substantive changes. She suggested that a subcommittee be formed to review current local rules and make recommendations. The subcommittee members are: Lisa Geremia, Patty Antonelli, Tom Carlotto, Janet Goldman, Chris Lefebvre, Gary Donahue/Sandra Nicholls, Stacy Ferrara, Jimmy Dahu and Susan Thurston (Chair). Patty offered to review the Massachusetts local rules for any that may be suitable for our court.

Gary stated that he would like to see the Chapter 11 Operating Reports filed with the court. However, because of potential privacy concerns, we may need special treatment of reports filed in individual Chapter 11 cases.

ACTION ITEM: Susan Thurston will organize the initial materials and schedule a meeting of the new local rules subcommittee. The Court will research other districts' local rules concerning the receipt of Chapter 11 operating reports and what restrictions, if any, on viewing are used.

- 4. Subcommittee for Loss Mitigation Review:** While Judge Finkle expressed her support for this program; she would like to see changes made to improve its efficiency, results and fairness. The Judge would like to conduct an initial status hearing four months after loss mitigation commences and expressed concern that loss mitigation requests are being filed on the eve of relief from stay hearings. The group discussed various ways to improve the efficiency of the program: Russell Raskin recommended that a standard package of required documents be identified to help counsel and their clients get the process moving early, but is concerned that banks will not accept a template. Janet Goldman stated that by the time the debtor's attorney gets the bank contact information, they are told that the information submitted to the bank is stale. Lisa Geremia said that most of the information requested by the bank is in the debtor's attorney's file when the bankruptcy is prepared. Chris Lefebvre suggested that the best mechanism is for someone from the bank to attend the status hearings. The group also reviewed some of the suggestions made by Harmon Law Office in its letter to the court.

Judge Finkle stated that by setting firm deadlines, counsel will have some leverage with their clients and that without deadlines, no one has any incentive. A required status hearing four months into the program will allow her to identify the problem areas, but further changes to the loss mitigation program are still needed. A subcommittee to prepare draft recommendations for the AAC was created of the following volunteers: Judge Finkle (Chair), Jeffrey Dana, Kevin Heitke, Kathryn Fyans, Russell Raskin, Elizabeth Lonardo, Jordan Baumer and Susan Thurston.

The group also discussed the effect of loss mitigation on chapter 13 plans. Lisa Geremia stated that debtor's should be required to make some kind of mortgage payment. Patty Antonelli suggested that the payment can go into a 'suspense' file, but unfortunately sometimes it is sent back to the debtor. Russell Raskin suggested that debtor's attorneys calculate what the feasible HAMP payment would be (adhere to the numbers on schedules I & J to show that debtors can make the payment) and use that as an interim payment. Liz Lonardo raised a concern that car loans are not being paid because loss mitigation holds up the confirmation of the chapter 13 plan. There was additional discussion regarding the effect of paying both the principal and mortgage arrearage through the plan. All of these issues will be shared with the LM subcommittee for further consideration.

Susan stated that use of the Loss Mitigation DMM portal was recently analyzed and determined that only 25% of the cases that should have used the portal actually did. She noted that the effectiveness of the portal came up at the December 13, 2012 Open Forum, and that the subcommittee should consider whether compliance should be required, or whether to discontinue its use.

ACTION ITEM: Susan Thurston will prepare a document listing suggestions made to date (by Judge Finkle, at the open forum meeting in December and through the AAC) and will schedule a meeting of the subcommittee to review the suggestions against the current program provisions and forms. The subcommittee will report back to the AAC at its April meeting.

5. **ECF 5.1 Upgrade April 2013 (New Transfer of Claim Fee Eff: 5/1/13):** Susan briefly discussed the main changes in the new release. Gary mentioned that the cases report in ECF limits his search to the past 30 days; Susan will see if that can be changed.

ACTION ITEM: Investigate whether the cases report in ECF for outside filers can be expanded to more than 30 days.

6. **Redesigned Website:** Susan advised that the court's website was recently redesigned using a national template so that users could expect the same core information to be located similarly regardless of which bankruptcy court website they visit. Pat Antonelli asked if the PACER link could be added to the Case Info tab to be more accessible and Liz Lonardo asked if the case manager's assignments could be more easily located on the court information page.

ACTION ITEM: Modify “Electronic Access Links” (under Case Info) to “PACER and CM/ECF Access Links”; Include Case Manager Assignments in the drop down list under both Case Info and Court Info tabs.

7. **Other Business:** Judge Finkle advised that she is no longer staggering the calendar (with the exception of chapter 11 matters at 11:00 AM), and court motions, confirmations and status hearings are being scheduled for one day per week (Wednesdays) leaving the rest of the week open for trials or emergency matters. Judge Finkle asked whether the committee members preferred a 9:30 or 10:00 a.m. calendar start time and with mixed responses, the group agreed to survey the Bar. Judge Finkle asked if a separate afternoon calendar for loss mitigation would be better. Gary thought it might but after further discussion, it was decided to keep it as is to avoid interference with afternoon Section 341 Meetings.

Susan mentioned that with tax season approaching there may be further building access issues. There will generally only be one line to enter, but those with appointments (need to have your hearing/341 notice) can notify the guards who will provide priority access. IRS visitors will be held on the right side of the building going down the handicap ramp. Russell Raskin remarked that the building should be retrofitted to avoid long lines outside the building in cold weather which everyone agreed with but there is no funding available. Susan advised that the Social Security Administration might be relocating sometime this year, which would help building access.

ACTION ITEM: The Court will conduct a poll to see whether the Bar prefers the court calendar to commence at 9:30 or 10:00 AM. Susan Thurston will prepare a Notice to the Bar regarding the formation and membership of both subcommittees and notify interested persons to email suggestions directly to the subcommittee members.

8. **Next Meeting Date:** April 11, 2013 @ 3:30 PM.

Meeting Adjourned at 4:45 p.m.