

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

**Minutes of June 14, 2017 Meeting of the Attorney Advisory Committee**

The meeting of the Bankruptcy Court's Attorney Advisory Committee was held at the Clerk's office on Wednesday, June 14, 2017 at 3:00 p.m.

**In Attendance:**

Hon. Diane Finkle  
Susan Thurston  
Amy Geraghty  
Jonathan Pincince  
Louisa Gibbs  
Lisa Geremia  
Russell Raskin

Kevin Heitke  
John Boyajian  
James Atchison  
Patricia Antonelli  
Christopher Lefebvre  
Charles Pisaturo

**1. Update on Bankruptcy Legal Clinic Operations**

Susan distributed a status report on the bankruptcy legal clinic activity as of end of May 2017. The clinic is working well and has served 13 individuals since starting in January 2017. We have 18 attorney volunteers supporting the clinic work, which is fantastic. Lisa Geremia provided comments on her experience to date: (1) the majority are very grateful; (2) only one person had all of the required paperwork completed when he came to the clinic; and (3) one individual had enough money to hire an attorney. Overall, she found that most clinic visitors were honest and very thankful for the assistance.

**2. Proposed Local Form 3015-1.1 – New proposed Chapter 13 Plan form**

A discussion about the upcoming national Chapter 13 plan form (effective 12/1/17) was held, and why the Court has decided to continue to use a local form plan with format and content modifications that comply with the required provisions in pending FRBP 3015.1. Judge Finkle likes the format of the national plan but certain of its selections do not comport with RI Chapter 13 practice and therefore use of our own form will be simpler. The committee provided feedback on a couple provisions and language changes and these will be made in the final draft that will be sent out for notice and comment.

The Committee was advised that the selection boxes at the top of page 2 of the form must be checked (regarding claims modification, lien avoidance and nonstandard provisions) if these sections are filled in later on within the plan in order to be effective. If the boxes are not checked but the debtor makes any of these selections within the plan, the debtor will be required to withdraw the plan from confirmation consideration and will be required to file an amended plan within fourteen days. Members agreed that this issue will probably come up at the 341 meeting prior to the confirmation date. The Chapter 13 trustee will need to do a lot more checking when reviewing this new plan form.

The change to FRBP 3002 reducing the Proof of Claim (POC) filing deadline from 90 days from the 341 meeting to 70 days from the order for relief will result in the deadline expiring prior to the date of confirmation which should make the process more efficient. However, requests by the debtor to extend time to file schedules or its list of creditors will be given on a very limited basis only in order that any delays not impact the creditors POC filing rights.

The Committee was advised that there will not be much procedural difference in the Chapter 13 process with the use of the new form but that creditors' POC filing process is changing fairly substantially with the reduced time frames and they need to be aware of this change. The group was also reminded that creditors cannot get paid unless they file a POC and that debtor's counsel may wish to do so on their behalf if they fail to do so that these payments can be made through the plan.

A question about service under FRBP 7004 was raised and whether it conflicted with the new plan. It was explained that our current local rule 9013-3(b) already requires compliance with the federal service rules regarding special matters (avoidance of liens, modification of secured claims) so if the debtor selects any of these provisions, they must do the heightened service, which is also reviewed by the Court for compliance.

Finally, it was discussed that instead of a different form for amended plans, that the debtor would use this same form and select the Amended box on the top right of page 1 and also list what sections of the plan are being amended. The debtor must fill in the entire form again so that interested parties can view this one document for what the amended plan provides. LBR 3015-2 currently requires that amended plans indicate whether the proposed changes do or do not adversely affect creditors. The Committee felt that language should continue to be used so the draft local plan form will be amended to add that information to the Amended Box on the top right of page 1.

The Court will notice the amended plan form and other local rule amendments for public comment shortly so that everything can be finalized by October in order to give the petition software companies time to make the updates and to provide training to the Bankruptcy Bar by the December 1, 2017 effective date.

### **3. Amended Federal Rule 3002 – Proof of Claim filing deadline**

The Proof of Claim filing deadline will be shortened to seventy (70) days from the order for relief date (generally the petition date). The Court will likely not provide more than a one week extension to debtors for filing their creditor list in order to not negatively impact creditors POC filing rights.

The confirmation hearing date will not be changing (pursuant to 11 U.S.C. §1324, it must be held between 20 to 45 days after the 341 meeting). The Chapter 13 trustee indicated this could be a problem for people who ask for a continuance of the 341 meeting, but even if the confirmation hearing date is rescheduled, the claims filing deadline will have run by then.

#### 4. December 1, 2017 Proposed Local Rule and Form Changes

The following local rules and forms were reviewed:

- (1) **LBR 3011-1 re Unclaimed Funds.** These changes are being made to tighten up the documentation required to prove successor in interest or assignee of claims filed by these entities or the unclaimed fund locator services.
- (2) **LBR 3015-1 and 3015-2 re Chapter 13 Plan and Amended Plan -** Changes to reflect the new local form.
- (3) **LBR 4001-1(i) re Relief from Stay** – Rather than having three identical forms with different form numbers as we do now (for the Joint Pretrial Statement), the Court is modifying all local rules that require a Joint Pretrial Statement to all reference the same local form number, which will be LBR 9014-1.1.
- (4) **LBR 5001-2 re Clerk’s Office --** - New provision for non-electronic filers to submit documents to the Court in the event the Clerk’s office is closed due to unexpected event such as inclement weather.
- (5) **LBR 7016-1 re Pre-Trial Procedure -** *See* LBR 4001-1 above re form change.
- (6) **LBR 9037-1 - re Privacy Protection** – This rule change specifies the procedure for a party to seek redaction of a document containing personal identifiers either individually or on a large scale basis.
- (7) **LBR 9070-1 re Exhibits --** *See* LBR 4001-1 above re form change.
- (8) **Local Form 3011-1.1** – revisions to unclaimed fund forms.
- (9) **Local Form 3015-1.1 re Chapter 13 Plan** – see discussion above under topic 2.
- (10) **Local Form 3015-3.1 re Order Confirming Chapter 13 Plan** – Modified paragraph 8 to change when the property of the estate vests in the debtor from “closing of the case” to “entry of discharge” date.
- (11) **Appendix VII re Eighth Amended Loss Mitigation Program and Procedures** - removed all references to requesting loss mitigation in a chapter 13 plan.

#### 5. Other Business

- (1) FRBP 3002.1 – A new issue that has been arising with the Court is the debtor’s failure to respond to an objection by the secured creditor to a final cure notice indicating that the debtor is behind in their mortgage payments. The issue is whether the discharge order

gets entered in these instances. Lively discussion by the Committee members. The Court's current practice is to issue an order to show cause to both the debtor and the creditor as to whether the discharge should be entered in these instances, thus giving the parties an opportunity to respond.

- (2) Good faith requirement to file a motion for relief from the automation stay – A committee member recommended that the Court consider adopting the Massachusetts Bankruptcy Court's local rule that before a creditor files a motion for relief from stay that it first confer with debtor's counsel in good faith on the issue. The Court did not think it appropriate to shift the burden to the creditor and declined to adopt this suggestion.

**The meeting adjourned at 4:10 p.m.**