

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

Minutes of April 28, 2011 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, April 28, 2011 at 3:30 p.m.

<u>Attendance:</u>	Lisa Geremia	Gary Donahue
	John Simonian	Joseph Dolben
	Russell Raskin	Steven Boyajian
	Catherine Eastwood	

<u>Court Staff:</u>	Susan Thurston	Stacie McHale
	Amy Seale	Jennifer Watts

1. **Introduction:** The meeting was called to order by Susan Thurston, Clerk of Court.

Old Business:

Upon motion, the minutes of the meeting of January 13, 2011, were unanimously approved.

2. **Review of RI Loss Mitigation Program:**

(a) **DMM Portal use commences April 11, 2011:** Users have been slow to sign up for portal; some were under the impression an invitation would be sent by DMM. The Court will send out a reminder email to notify the bar on how to start the registration process. Some banks are sending out invitations to attorneys representing borrowers that are not already signed up. In addition, participating lenders would like the portal to be a requirement for participating in the LM program, thus eliminating their need to monitor two separate systems (electronic and paper based). The Committee generally agreed that requiring its use would provide greater turnaround on the loss mitigation program and suggested including the ability to become exempt if necessary as CMECF provides.

DMM is looking to offer expanded training opportunities including webinars and a user manual. Local creditor attorneys have not had much involvement to date, as they will be assigned to a LM once the case is opened in the Portal system.

(b) **Loss Mitigation Order:** The Committee reviewed the suggested language change to require the use of the Portal and was advised to email Susan with any additional comments.

(c) **Statistics (March 2011):** LMs account for 12% of the caseload, with an approximately 35% success rate (the actual rate is higher since dismissals and other reasons for lack of completion unrelated to loss mitigation are included in the termination numbers).

3. **CARE Program – Status Update:** It has been a very successful pilot year with the CARE program – 8 schools were visited and over 1200 students taught. The feedback

from the schools has been extremely positive. One more month of presentations are scheduled before the end of the current school year. The CARE Coordinator is working on recruiting additional CARE presenters for the next school year. A marketing campaign is underway and the response so far has been very favorable.

4. **Attorney User Manual feedback:** There was not much feedback on the use of this new resource. Many attorneys thought it was only an electronic filing resource. There are many procedural instructions included as well and more will be added in the future.

New Business:

5. **Loss Mitigation Procedures Compensation Issue:** Debtors attorneys are spending 4-6 hours on average for work done on Loss Mitigation. Having a 'no look' fee of \$750 to \$1,500 specifically for loss mitigation would be helpful in compensating the attorneys, in addition to the \$3,500 fee they can receive for a Chapter 13. It was suggested that the no look fee be included within the Chapter 13 plan, which would mean that counsel would not receive the fee unless and until the case is confirmed. The Judge has expressed support for such a fee, although the amount and implementation are still to be determined. The Court will draft proposed plan changes to add the fee and circulate to the members before releasing for formal notice and comment.

Orders to Show Cause Against Debtors and Lenders: The creditor attorneys expressed concern with being required to respond to orders to show cause related to unfiled status reports when they are not the party required to initiate these reports. This will be reviewed by the court and changes made if appropriate.

6. **Chapter 13 Wage Attachments:** A concern was raised by debtors' attorneys that the mandatory wage attachment procedure in Rhode Island is causing some debtors to refuse Chapter 13 participation due to embarrassment or job security concerns. The committee discussed the pros and cons of the wage garnishment process, as well as the Chapter 13 trustee's written comments, and ultimately determined that the current process is effective and should continue. However, it was also discussed that if a particular debtor has a good reason to be released from the requirement, they can file a motion with the court and often these are allowed.
7. **May 20 VLP Training:** A basic bankruptcy training session is being conducted on May 20 at RIBA to recruit new attorneys for participation in the Volunteer Lawyer Program to handle pro bono bankruptcy cases. Topic suggestions were solicited.
8. **Other Business:**
 - A) A concern was raised about the § 341 calendar on the court website because the debtors names show up in Google searches and may impact their job search abilities. Susan will have the automation department look into either having the calendar access go through PACER or CMECF or just use the first initial of the debtors last name.

- B) Another concern that was raised was the calendar wait time in court due to lengthy matters heard first, which sometimes results in counsel with formal matters spending significant time waiting. Susan will speak with chambers and determine if a First and Second call can be used to assist with this.

NOTE: Following the meeting, the Court updated its courtroom calendar procedure to begin at 9:50 AM with the Courtroom Deputy conducting a First Call at which time the parties indicate whether their matter is now formal (settled) or will proceed to hearing before Judge Votolato. Once Judge Votolato takes the bench, those matters reported as formal will be called first and placed on the record, before the Court begins the call of the rest of the calendar. Agreed continuances do not constitute a formal matter and must proceed in the normal course of the calendar. Chapter 13 confirmation cases without objection will not be called formal, and will proceed in the normal course of the calendar.

9. Next Meeting Date: July 28 at 3:30 PM