

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

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

<u>Attendance:</u>	Russell Raskin	Janet Goldman
	Lisa Geremia	Gary Donahue
	John Simonian	Joseph Dolben
	Thomas Carlotto	Steven Boyajian
<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 April 28, 2011, were unanimously approved.

2. Review of Loss Mitigation Program:

- (a) **Current challenges with the Program:** The amount of paperwork is becoming overwhelming to Debtors attorneys and their staff; a suggestion was made to limit the filing of the status report from every month to every two months, and also to be allowed to file one-sided status reports. Part of the issue is getting in touch with a representative from the Lenders side and when no local counsel has been appointed, a joint status report is much harder to complete. The filing of a one-sided report was discussed although in that situation, an objection deadline would need to be set which would delay the process for another 17 days. After discussion, the committee endorsed modifying the program to allow for the filing of a one-sided status report where the debtor is unable to obtain the signature of the lender. To make things easier for the filers, the court will continue to use one event for all status reports and add a prompt to indicate whether it is being filed jointly or one-sided, which will determine if an objection deadline gets set or not. It was further suggested that the event contain a prompt for the Attorney to certify that an attempt was made to obtain a joint report, but was unsuccessful. The court will also review the timeframes contained in the loss mitigation program and determine if changes to the status report due dates should be made consistent with the timeframes of how these matters are progressing.

Lastly, the committee discussed the difficulty with locating a proper address for many of these lenders. For national banks, it was suggested that debtor use the name and address listed on the Federal Reserve website.

- (b) **Proposed changes to Program:** As discussed above, the court will review the loss mitigation program and propose changes consistent with the above recommendations.
- (c) **Additional lenders to pursue for participation in DMM Portal:** In April 2011, the court partnered with the Default Mitigation Management LLC to pilot its web application known as the DMM web portal to automate the document exchange process between debtors and services engaged in loss mitigation efforts. Since April, participation on the DMM portal has been fairly slow in comparison to the number of loss mitigation requests filed with the court, primarily due to the limited number of servicers participating on the portal. The representatives of DMM are interested in expanding the servicer participant population and to do so, seek contact information (names and addresses) for the major lenders involved in the Rhode Island loss mitigation market. **Committee members were asked to email Susan with the contact information of such lenders who are not currently participating on the portal, and DMM will target these servicers for future participation.**
- (d) **Statistics (June 2011):** The statistics have been split into yearly results and are updated monthly. The average loss mitigation is taking on average 4 ½ months to complete. Loss mitigation requests account for approximately 12% of the filing caseload.

3. **Review of Courtroom Calendar changes:** The recent changes to the courtroom calendar call were well received by the committee and no further suggestions were made at this time.

New Business:

4. **Mediation Process:** The clerk reviewed the past procedure for referring matters to mediation when requested (usually through the discovery plan or joint pretrial order). For many years, these referrals have been sent to Magistrate Judge Hagopian at the U.S. District Court, however recently Judge Hagopian has reduced his hours and his support staff. Berry Mitchell, the ADR Administrator at the US District Court serves as a mediator in that court and has also participated in bankruptcy mediations in the past. Mr. Mitchell may be available to assist the bankruptcy court going forward (without charge to the parties), and the committee was asked for their feedback on his potential involvement, particularly since he is not a judge of that court. The committee unanimously expressed their support for using Mr. Mitchell as a mediator for bankruptcy matters in the future. The clerk will notify Judge Lisi of this positive feedback with the hope that Mr. Mitchell would be able to serve in this capacity when needed for bankruptcy mediation matters.

NOTE: Following this meeting, Judge Lisi approved the use of Mr. Mitchell as mediator for bankruptcy referrals in the future.

- 5. Treatment of Claims Objections:** A concern was raised that some attorneys are filing numerous claims objections that are not well grounded in fact or law, but which are being sustained by rule of court due to the failure of objection by the creditor. The reason why creditors often do not respond is because the claim has been sold. The committee discussed whether changes to the local rules would address the issue or whether to schedule these for routine hearing. Neither of these options was ideal. The court will study the issue further and determine if further scrutiny of these types of filings should be made by chambers.
- 6. Next Meeting Date:** Thursday, November 3, 2011, at 3:30 p.m.