

AGENDA

Bankruptcy Local Rules Committee Meeting January 12, 2016 10:00 A.M.

1. Approval of Minutes of Prior Meeting(s). [Mr. Clement]
2. Chair Announcements. [Mr. Clement]
3. Clerk's Office update. CM/ECF, et al. [Mr. Leddy]
4. Revisions to Local Rules to Conform with new Official Forms and Amendments to Fed. R. Civ. P. [Mr. Leddy & Judge Fagone]
5. Administrative Procedures Relating to Electronic Filing and Signature Requirements [Subcommittee of Mr. Morrell, Mr. Cope, and Judge Fagone to report.]

Issue: This item grew out of Mr. Morrell's concerns about the applicability of the "wet signature" retention requirement to recent streamlined procedures for reviewing Trustee File Reports and Trustee Distribution Reports. Although the concerns of the U.S. Trustee's Office have been resolved, Messrs. Morrell and Cope will:

- a. analyze the current Administrative Procedures (described below) and make a recommendation as to whether changes should be made to the language of the Administrative Procedures;
- b. Analyze whether the provisions in the Administrative Procedures should be converted from a standing order to a Local Rule; and
- c. Analyze whether the Local Rules should require verified digital signatures, to replace the current practice of indicating digital signatures by using "/s/". See Administrative Procedures (defined below) at II.D. See LBR 4001-1(g) (requiring signatures for consented to motions for relief from stay);
- d. Confer with Alec and report as to whether the next generation CM/ECF program will address the issue of verified signatures.

See, Administrative Procedures for Filing, Signing Maintaining, and Verifying Pleadings and Other Documents in the Electronic Case Filing (ECF) System (the "Administrative Procedures"), which was adopted pursuant to the Standing Order Regarding Administrative Procedures for Electronically Filed Cases, dated August 12, 2002.

To Do: At our November 12, 2015 meeting, the subcommittee reported that it was exploring an addition to the LBR's that would replace, perhaps in full, the items in the Administrative Procedures and the Standing Order.

6. Certificates of Service in the Age of Electronic Filing and Noticing. [Subcommittee of Mr. Cope, Mr. Silver, and Judge Fagone to report.]

Issues: Should the parties be required to file a certificate of service as to service that is provided through the NEF (Notice of Electronic Filing) system or through the Bankruptcy Noticing Center? If so, what form should be certificate of service take? How can an attorney make any certifications with respect to notice that is given through these electronic means that are not under the control of the attorney?

To Do: At our November 12, 2015 meeting, the subcommittee reported that it would likely defer a recommendation on this issue pending resolution of Agenda item 6.

7. LBR 9013-1(d)(5) Revisited. [Mr. Creswell]

Issue: Does the existing language (which was newly drafted within the last two years), provide effective guidance as to requirements for setting hearing dates and deadlines for responsive pleadings?

To do: Review the proposed language that Judge Fagone circulated following our November 12, 2015 meeting that is designed to clarify, but not rewrite, the existing language.

8. Chapter 12 Rules; Consistency with Chapter 13 Rules. [Mr. Fessenden]

Issue: Should Local Rules be adopted to make Chapter 12 practice similar or identical in appropriate respects to Chapter 13 practice? If so, what changes should be made?

To Do: Mr. Fessenden to present revisions to LBR's 3015-1, 3015-2, 3015-3, and 3015-4 to add references to Chapter 12 as analogues to references to Chapter 13 where appropriate.

9. Chapter 13: Restrictions on Time to Re-File a Withdrawn Plan. [Mr. Fessenden and Ms. Beaudin]

Issue: Mr. Fessenden reports that the Chapter 13 practice sometimes gets "bogged down" because of serial withdrawals and re-filings of Chapter 13 plans. Plans are being withdrawn on the eve of confirmation, and not re-filed until an order to show cause is issued.

Mr. Fessenden proposed for discussion an amendment to LR 3015-3 to shorten time for re-filing a withdrawn plan from 28 days to 21 days. The proposed amendment would read as follows:

“(e) Withdrawal of Plan Noticed for Confirmation. If a plan is withdrawn by the debtor(s) after it has been noticed for hearing, the debtor(s) shall file a superseding plan within 21 days, unless the Court fixes a greater or lesser time.”

To Do: Ms. Beaudin will report on whether any prohibition exists on establishing a deadline for plan confirmation in Chapter 13 cases. Committee will consider proposed language set forth above.

10. Consider Requirement that Amended SOFA's Show Changes. [Mr. Clement]

Issue: The filing of amended SOFA's without calling attention to the changes is burdensome to trustees and other practitioners. Should a person filing an amended SOFA be required to identify the changes?

To Do: Mr. Clement to report on potential changes to LBR that would address this issue.

11. Other Matters

a. Issues for Future Agendas

12. Next Meeting: Schedule next meeting.