

## AGENDA

### Bankruptcy Local Rules Committee Meeting September 16, 2014 10 A.M.

1. Chair Announcements.
2. Clerk's Office update. CM/ECF, et al. [Alec]
3. Continuations of Stay under §362(e) by Docket Entry. [Alec, Mike]

**Issue:** In light of the provision in §362(e) that the stay is terminated 30 days after motion is filed, what happens (or should happen) if the movant does not schedule a hearing within 30 days?

**Background:** When filing the motion in ECF, the movant is presented with a choice of whether to "waive" the "requirement" that a hearing be held within 30 days. At our December 2013 meeting, we discussed: What happens when a movant checks "no" and does not schedule a hearing within 30 days? And, what language should the clerk's office put on the docket to signify that movant consents to continuation of the stay in the event no hearing is held within 30 days? At our April 29, 2014 meeting, we agreed upon the following proposed new Local Rule 4001-1(c)(3):

*Proposed New D. Me. LBR 4001-1(c)(3)*

(3) *Stay Pending Hearing.* A movant that schedules the first hearing on a request for relief from the stay more than 30 days after the date of the filing of the motion is deemed to have consented to a continuation of the stay, for purposes of 11 U.S.C. § 362(e)(1), until the first hearing on the motion.

(For additional background, see Minutes of December 3, 2013 and April 29, 2014 Meetings.)

**Resolution:** New subsection to Local Rule 4001-1(c) has been or shall be presented to the District Court for review and approval.

4. 363(f) Motions Free and Clear. [Steve]

**Issue:** A new fee of \$176 has been imposed. What should a trustee do when he/she wishes to sell property free and clear and the estate has no funds to pay the filing fee? Will trustees be permitted to defer payment of the fee until proceeds of sale are received? The Rules currently do not contemplate this. Also, what would happen if the trustee fails to receive sale proceeds from which to pay the fee?

Should motions to defer payment of filing fee be added to the LBR 9013 list?

**For Discussion:**

Chief Judge Kornreich has reported back from his attendance at a meeting of the Bankruptcy Judges Advisory Group that the issue of deferring the 363(f) fee is being considered by the Judicial Conference. The BK Judges Advisory Group made a recommendation to the Conference that no deferral be adopted on a national basis, reasoning that trustees or other parties should be able to raise the sale fee from a prospective buyer or, if the value of the property doesn't support the fee, abandon it.

5. Closing Cases – [Steve Morrell]

**Issue:** The process for reviewing Trustee Final Reports and Trustee Distribution Reports is changing to streamline the closing of cases. The streamlined process raises questions as to the maintenance of wet signatures. Trustees will be responsible for keeping wet signatures on file.

**For Discussion:** Can the LRC do anything to assist as to this issue?  
Recommend a change to the CM/ECF rules?

6. Discovery Issues in Contested Matters: FRBP 9014 and Local Rule 9014-1 –  
[Randy]

7. Other Matters

a. Issues for Future Agendas

8. Next Meeting: Schedule next meeting.