

AGENDA

Bankruptcy Local Rules Committee Meeting September 24, 2015 10:00 A.M.

1. Approval of Minutes of Prior Meeting(s). [Roger]
2. Chair Announcements. [Roger]
3. Clerk's Office update. CM/ECF, et al. [Alec]
4. Update on MSBA Bankruptcy Conference [Peter]

Peter will chair this conference, which will occur on Friday, October 23, 2015, from 8:30 a.m. to 4:30 p.m. at the Hilton Garden Inn in Freeport. The conference will include a session on changes to the Federal Rules of Bankruptcy Procedures and the official Bankruptcy Forms, which will become effective December 1, 2015.

5. Revisions to Local Rules to Conform with new Official Forms
6. Administrative Procedures Relating to Electronic Filing and Signature Requirements
[Steve Morrell and Steve Cope to report]

Issue: This item grew out of Steve 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.

7. Discovery Issues in Contested Matters: FRBP 9014 and Local Rule 9014-1
[Andrea, Judge Fagone and Randy to report]

Issue: Are all discovery processes and methods available to litigants in adversary proceedings also available to parties in contested matters in light of Rules 7026 and 9014 of the Fed. R. Bankr. P., Local Bankruptcy Rules 9014-1(a)(1) and (3) and 9029-3, and District Court Rule 26? For example, are parties in contested matters entitled to discovery before the first hearing in a contested matter?

For Discussion: Under the current rules, does ambiguity exist as to whether parties in a contested matter are entitled to discovery before the first hearing? If not, does the rule comport with the procedure for adversary proceedings? Should it? If ambiguity exists, how should the Local Rules be amended to resolve the ambiguity?

8. Certificates of Service in the Age of Electronic Filing and Noticing. [Steve Cope, Judge Fagone, and Richard]

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?

9. LBR 9013-1(d)(5) Revisited. [Randy]

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? Randy will propose alternative language with the goal of eliminating ambiguity.

10. Global Review of Local Bankruptcy Rules. [Randy and Darcie]

11. Chapter 12 Rules; Consistency with Chapter 13 Rules. [Peter]

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?

12. Chapter 13: Time to Refile Withdrawn Plans.

- a. Proposed amendment to LR 3015-3 to shorten time for re-filing a withdrawn plan from 28 days to 21 days. [Peter and Darcie]

“(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.”

This language would be an addition to local rule 3015-3. It would address the “back door” continuance of hearings on Chapter 13 confirmation. It has been reported that some attorneys withdraw a plan the day before a hearing and wait for an order to show cause before taking any further action.

13. Other Matters
 - a. Issues for Future Agendas
14. Next Meeting: Schedule next meeting.