

AGENDA

Bankruptcy Local Rules Committee Meeting December 6, 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. Discovery in Contested Matters. [Judge Fagone, Mr. Morrell]

Issue: Proposed amendment to LBR 9014-1(a)(3). At the October 11, 2016 meeting the Committee recommended the following language:

Discovery Requirements. Unless otherwise ordered by the court, Fed.R.Bankr.P. 75026 shall not apply to contested matters. At the first hearing on a contested matter, the parties should be prepared to address the need for discovery and, if applicable, the issues and topics identified in Fed.R.Civ.P. 26(f)(3)(B)-(F). Discovery in a contested matter may not commenced until authorized by order of the Court.

~~*Discovery Requirements.* Unless otherwise ordered by the court, Fed.R.Bankr.P. 75026 shall not apply to contested matters. At the first hearing on a contested matter, the parties should be prepared to address the need for discovery and, if applicable, the issues and topics identified in Fed.R.Civ.P. 26(f)(3)(B)-(F). Discovery in a contested matter may not commenced until authorized by order of the Court.~~

To Do: Status report.

5. Should Consented-To Motions for Relief from Stay Require the Consent of Codebtors Protected by the Stay Under §§1201 and 1301? [Mr. Sleeper and Ms. Economy]

Issue: Rule 4001-1(g) requires consent of the trustee and the debtor for a motion for relief from stay to be filed as consensual, but does not require consent from codebtors. If a M/R/S is consensual, then no hearing is required. See, LBR 9013-1(d). But, a consented to M/R/S that does not include the consent of a codebtor should not lead to the relief that the movant truly seeks, which is to be free to foreclose on its collateral. Should LBR 4001-1(g) be amended to require consent of codebtors protected by the stay?

Currently, LBR 9013-1(d) does not have provision for relief without a hearing even when the codebtor consents. Should LBR 9013-1(d) be amended to deal with exceptions to the hearing date requirement when the codebtor consents? If so, consider the following:

“Motions for relief from the stay that have the consent of the debtor and of any trustee and committee appointed in the case, as well as of any non-filing codebtor if relief from a codebtor stay is sought.”

Ms. Economy will report on the issue of whether the codebtor stay is intended to protect only the debtor, or the codebtor as well.

6. New Federal Rules of Bankruptcy Procedure. [Judge Fagone]
At our October 11 meeting, Judge Fagone reported on new Federal Rules of Bankruptcy Procedure that are likely to become effective on December 1, 2016. These new rules fall into the following categories: (a) rules dealing with Stern v. Marshall issues; (b) rules dealing with cross-border issues; (c) revisions to Rule 3002.1 (relating to chapter 13 plan payments on account of claims secured by the debtor’s principal residence); and (d) 9006 (relating to time computation when service is effectuated electronically). Judge Fagone recommended that the Committee consider forming one or more subcommittees to consider whether these rule changes will necessitate changes to the Local Rules.
7. Uniform Chapter 13 Plans. [Judge Fagone]
At our October 11 meeting, Judge Fagone stated that Rules 3015 and 3015.1 are likely to be amended to require chapter 13 plans to conform to a federal form. These new rules will likely take effect December 31, 2017. Each district will have the ability to opt out, provided that a process is followed. The opt out process will require an official comment period. Accordingly, the Committee discussed forming a subcommittee to analyze the “national” chapter 13 plan, solicit input from members of the bar and other appropriate persons, and determine whether we would recommend pursuing a process for opting out of the national plan. The Committee discussed including chapter 13 practitioners who may not be on the Local Rules Committee.
8. Severed Chapter 13 Plans. [Messrs. Sleeper & Fessenden]
Mr. Sleeper raised the issue of how severed chapter 13 plans should be dealt with. These are chapter 13 cases that are filed jointly, but then severed into two cases. It was agreed this item should be added to the Agenda for our next meeting.
9. Other Matters.
 - a. Alternative Dispute Resolution (LBR 9019-2)
 - b. Issues for Future Agendas
10. Next Meeting: Schedule next meeting