

**United States Bankruptcy Court for the District of Maine  
Local Rules Committee**

**Meeting Minutes – February 3, 2015, 10:00 A.M.**

A regular meeting of the Local Rules Committee for the United States Bankruptcy Court for the District of Maine was held at the Bankruptcy Court in Portland, Maine on February 3, 2015. Members of the Committee in attendance were Judge Peter G. Cary, Darcie P.L. Beaudin, Esq., Roger A. Clement, Jr., Esq. (Chair), Steven G. Cope, Esq., Randy J. Creswell, Esq, Alec Leddy, Esq. (Clerk of Court), Stephen G. Morrell, Esq. (Assistant U.S. Trustee), and Andrea Bopp Stark, Esq.

Michael A. Fagone, Esq., Peter C. Fessenden, Esq. (Standing Chapter 13 Trustee), Perry O'Brian, Esq., and Richard A. Silver, Esq. were absent.

I. Approval of Minutes. Minutes of the November 12, 2014 meeting were approved.

II. Chair Announcements.

a. There were no announcements from the Chair.

III. Clerk's Office Report.

Report by Alec Leddy

- a. CM/ECF servers are in the process of being moved to Virginia, where they will be maintained as part of a centralized bank of servers for all bankruptcy courts. This will be invisible to users. The Court's IT staff will still have total control of the servers.
- b. The Court's website is being revised to comport with a more uniform template used by many other districts. The revised website is expected to be live within the next week.
- c. Next Gen CM/ECF is expected to be rolled out in the District of Maine in the latter part of 2015. This will not occur until the servers are moved to Virginia. The changes will be significant and will require training. A few districts are already using the new version.

IV. Administrative Procedures Relating to Electronic Filing and Signature Requirements.

The Committee discussed several issues related to the requirement that "wet" signatures be maintained by the registered filer for two years under subparagraph II.D of the Administrative Procedures<sup>1</sup> adopted pursuant to the Court's August 12, 2002, Standing

---

<sup>1</sup> The full title is "Administrative Procedures for Filing, Signing Maintaining, and Verifying Pleadings and Other Documents in the Electronic Case Filing (ECF) System."

Order Regarding Administrative Procedures for Electronically Filed Cases. The discussion focused upon the retention of multiple signatures accompanying consent motions, stipulations, joint motions, and other pleadings which contain more than one signature. A subcommittee consisting of Messrs. Morrell, Cope and Leddy agreed to study the issue in greater detail and consider possible changes to the current rule and whether the Administrative Procedures should be incorporated into the Local Rules.

The subcommittee 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.

#### V. Discovery in Contested Matters.

This item remained on the Agenda from the previous meeting. Issues: Are all discovery processes and methods available to litigants in adversary proceedings also available to parties in contested matters in light of Fed. R. Bankr. P. 7026 and 9014, 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? 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?

Ms. Bopp Stark and Messrs. Creswell and Fagone will review this and recommend whether any modifications to the Local Rules would be appropriate.

#### VI. Certificates of Service in the Age of Electronic Filing and Noticing.

Mr. Cope initiated a discussion of the following 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 the 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?

Mr. Cope will chair a subcommittee comprised of himself, and Messrs. Fagone and Silver to analyze and report back on these issues

VI. LBR 9013-1(d)(5) Revisited.

Mr. Creswell raised the following 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?

After discussion, Mr. Creswell volunteered to draft an outline of the interplay between the Federal and Local Rules, and to propose alternative language with the goal of eliminating ambiguity. The Committee accepted Mr. Creswell's offer.

VII. Global Review of Local District Court Rules.

Ms. Bopp Stark has completed her review of the Local District Court Rules relating to bankruptcy practice. In particular, she looked for ambiguities and lack of synchronization between the District Court Rules and the Local Bankruptcy Rules. She recommends that no change be made. This item will be removed from the agenda.

VIII. Global Review of Local Bankruptcy Rules.

Mr. Creswell and Ms. Beaudoin have undertaken this task. They had nothing specific to report. Their review is ongoing.

IX. Chapter 12 Rules.

Issue: Should the Local Rules should be amended to make Chapter 12 Practice similar or identical in appropriate respects to Chapter 13 practice.

Issue: Should our Local Rules be amended to eliminate motions to allow and disallow claims in Chapter 13 cases. It was noted that the MAD process was believed to be unique to Maine.

These issues were discussed briefly. Further discussion was tabled until the next meeting.

X. Brown Bag Lunch.

Judge Cary intends to confer with the newly selected bankruptcy judge (expected within the next few days) and then schedule a brown bag lunch in the coming months.

XI. Next Meeting.

The next meeting will be on Tuesday, April 14, 2015 at 10:00 a.m. in the Bankruptcy Court in Portland and the teleconference room at the Court in Bangor.