

MINUTES

United States Bankruptcy Court for the District of Maine Local Rules Committee Meeting February 15, 2023 – 10:00 a.m.

Members Present: Mr. Hull (Chair), Mr. Sleeper, Mr. Morrell, Ms. Doil, Ms. Sambatakos, Mr. Wholly, Mr. Crosman, Ms. Fisher, Ms. Economy, Mr. Dudley, and Mr. Molleur.

Members Absent: Mr. Anderson.

Other Participants: Judge Cary, Ms. Bigley, Ms. Ford, and Mr. Brown.

1. **Approval of Minutes of Prior Meeting.** The minutes from the January 12, 2023 meeting were approved.
2. **Chair Announcements.** Mr. Hull thanked the members of the Committee who helped set up the Maine State Bar Association Bankruptcy & Reorganization Section meeting. There were a lot of helpful comments that came out of that meeting pertaining to the Committee's work.
3. **Clerk's Office Announcements/Updates.** Ms. Bigley announced that a search has begun for a new bankruptcy courthouse in Portland. She expects the court to stay in place for at least another year, up to eighteen months. The current search area encompasses a ¼ mile radius around the Gignoux Courthouse.
4. **Review of Local Rules for Consistency/Cross-References/Updating.**
 - **Follow-up of updates from previous meeting:**
 - **Mr. Sleeper's comments on the 9000's:** A subcommittee comprised of Judge Cary, Mr. Hull, Ms. Doil, and Mr. Sleeper met to discuss Mr. Sleeper's comments on this section. They reviewed a number of the edits and have some changes to be proposed at today's meeting.
 - The subcommittee agreed that a definition of "district court" and "district court clerk" should be added to 9001-1.
 - In 9013-1(d)(3), "moving party" and "movant" are used interchangeably. The Federal Rules use "moving party." The subcommittee decided to use "moving party" to mirror the Federal Rules. Judge Cary volunteered (along with court staff) to scrub through the Rules and ensure consistent use of "district court", "district court clerk", and "moving party".
 - **Local Rule 4001-1(f) and 9013-1(d)(1):** Mr. Sleeper had sent around an email indicating that he saw potential overlap between these rules. After some healthy

debate on what constitutes consent, the Committee came to the following resolutions:

- 4001-1(f) – Keep the first two sentences and add Chapter 12/13 clarifying language to sentence two, eliminate the third and fourth sentences, and keep the final sentence. Judge Cary will make these changes.
 - 9013-1(d)(1) – The enumerated list currently refers to Consented Motions for Relief from Stay. That will be changed to just Motion for Relief from Stay and add a cross-reference to 4001-1(f). Judge Cary will make these changes.
- **Local Rule 9013-1(d):** Mr. Crosman has proposed that the Committee add Consent Motions for an Interim Distribution Order in Chapter 13 cases to the enumerated list. There are a few typos in the proposed language that Mr. Crosman sent around; “authorize” will need to be changed to “authorization” and 1326(a)(1)(C) reference will need to capitalize the C. Mr. Dudley is in agreement with proposed language. Judge Cary will add this to the enumerated list.
 - **Local Rule 9013-1(k):** The Committee had a first reading of Mr. Hull’s proposed changes to this section. The proposal is modeled after the District of Vermont. If ex parte relief is sought, the movant would need to submit two motions – the ex parte motion and motion to restrict access. The Court would review and determine if relief is appropriate; relief would be communicated by the Clerk’s Office. If relief is granted, the Clerk’s Office will maintain the submitted motions; if denied, the motions will be returned to the movant. The language will also make it clear that the Judge can convene a hearing.

Ms. Bigley clarified that anything submitted would be placed on the docket, however it would initially be filed as a private document (and may later be unlocked to the public).

The Committee had discussions around the need for an affidavit and what is required with the filing of ex parte motions. Mr. Hull will recirculate a redlined version taking all comments into consideration. This matter will say on the agenda for next month.

- **Follow-up on Judge Cary’s discussions with Judge Fagone:**
 - With regard to emergency and expedited hearings, Judges would like to seek feedback from the bar as to whether the bar likes how these are currently handled, doesn’t like how they’re currently handled, and for any suggested changes. From there, Judges will propose something and bring it to the Committee.
 - Local Rule 9045-1: Beginning on April 1, 2023, there will be an eight-month period in which the limitation on number of continuances will be removed. This will be done by Standing Order. There was a request made that the time between continuances be expanded to 60 days; Judge Cary will bring this request to Judge Fagone.

- **General Discussion of the Local Rules:**

- **Local Rule 9014-1(a)(1):** Change “Rule” to “Local Rule.” Change “D. Me.” To “Local Rule” to keep consistent with other rules.
- **Local Rule 9014-1(a)(2):** Mr. Sleeper’s recommendations will be pulled in with the existing changes to make this rule read similar to the Federal Rule. Mr. Hull, Judge Cary, and Ms. Fisher will review to see if there is documentation that states once an appearance is entered, service is effectuated via CM/ECF. Judge Cary will make the outlined changes.
- **Local Rule 9014-1(a)(3):** Language to remain as is.
- **Local Rule 9014-1(a)(4):** Mr. Sleeper suggested adding language instructing parties to exchange witness lists and provide copies to the Court. While this is usually part of the Scheduling Order, the Committee agreed to add the suggested language. Judge Cary will make the outlined change.
- **Local Rule 9014-1(b):** Changed as outlined in redline version approved by Committee.
- **Local Rule 9015-1:** Committee wanted to incorporate 7001 reference to follow the structure of the Federal Rules. Judge Cary will circulate the redline changes in the new draft. Next meeting will start with rule.

5. **New Business/Matters/Issues.** None

6. **Scheduling Next Meeting.**

- March 8, 2023 at 10:00 a.m. – 9000s continued