

**MINUTES**  
**United States Bankruptcy Court for the District of Maine**  
**Local Rules Committee Meeting**  
**March 14, 2019**

Present: Mr. Creswell (Chair), Chief Judge Cary, Mr. Leddy, Mr. Dudley, Mr. Molleur, Mr. Hull, Ms. Dye (on behalf of Judge Fagone), Mr. Crosman, Mr. Anderson, Ms. Doil, Mr. Morrell, Mr. Sleeper, Mr. Wholly, Ms. Economy

Absent: None

**1. Approval of Minutes of Prior Meeting.**

Minutes from 11/13/18 meeting were previously circulated and approved. They have been posted on the website.

**2. Welcome to new Committee Members.**

- Mr. Creswell and Chief Judge Cary welcomed new members to the Committee. Mr. Creswell has a handout he received from Roger Clement (Chair of Committee) in 2012 about the Committee and its role in drafting/changing local rules. Mr. Creswell will send it around so that Committee members will understand how the rule-making process works and why the Committee has the role it does in that process. Chief Judge Cary and Judge Fagone both thanked all the members for the time and effort they put into the Committee. It is much appreciated.

**3. Chair Announcement.**

- No announcements from the Chair

**4. Clerk's Office Report.**

- Mr. Leddy will scan and post to the website the new automatic dollar adjustments.
- Mr. Leddy reminded the Committee of the Brown Bag Lunches – April 4 in Bangor and April 24 in Portland. Mr. Leddy indicated that the draft agendas were quite long and that there were several issues that the Judges want to cover so he encouraged all to attend.
- The Clerk's office is working on a tips and reminders page that will be added to the website. This will not be rules and requirements, just helpful hints and instructions on filing. The Clerk's Office should be able to get this up within the next month or so. If you have any ideas that you would like to see put on, let Clerk Leddy know.

**5. Local Rule 3007-1 – Claims – Objections.**

Mr. Creswell stated that Mr. Dudley, Mr. Molleur, Judge Fagone and Darcie Beaudin were spearheading this effort to revise the claims objection process in conjunction with the current MAD practice. Discussion was had concerning the current MAD process and whether and how it should or will be reviewed and revised to more closely align with the requirements of the Code and rules. A proposed revision to Local Rule 3007-1 was circulated as a starting point for discussion on what a replacement of the MAD would entail. Mr. Dudley will be sending along forms of orders that he would like to use as an "answer key", which would

effectively serve as a clearing house for claim status. Mr. Creswell will circulate some changes that were discussed to the proposed rule that was previously circulated.

This item will remain on the agenda.

**6. Local Rule 2016-2 – Compensation of Professional - Retainers.**

Lengthy discussion regarding proposed revisions to Local Rule 2016-2. Currently, Rule requires that retainers in excess of \$25,000 must be addressed differently than retainers of less than that amount. Potential ambiguity exists in Local Rule for differing retainers warranting clarification by the Committee.

Proposed change to Local Rule 2016-1 to eliminate the dollar threshold for all retainers and to have one uniform rule for all retainers. Proposal also includes specific references to Bar Rules and Rules of Professional Conduct to highlight for all counsel that the treatment of retainers must not only comply with bankruptcy-related rules, but Rules of Professional Conduct as well. Those rules also dictate specific requirements regarding IOTLA accounts.

The proposed revisions to Local Rule 2016-1, including the specific references to the Maine Rules of Professional Conduct, were to be considered by the Committee for the next meeting. This item to remain on the agenda.

**7. Local Rule 1020-1 – Chapter 11 Small Business Cases – General.**

Under Local Rule 1020-1, a debtor can “elect” to be treated as a “small business debtor.” With revisions to the Bankruptcy Code, however, a “small business debtor” is a defined term (11 U.S.C. § 101(51D)), and therefore there is no election. Either a debtor qualifies as a small business debtor or it does not.

Local Rule 1020-1 is now an anachronism and should be eliminated. Committee agreed.

This item to be removed from the agenda.

**8. Local Rules 9013-1(d)(1) – Scheduling Hearings.**

This item was not reached and will remain on the agenda, including matters pertaining to disclosure statements in small business Chapter 11 cases.

**9. Federal Bankruptcy Rule Revisions Effective Dec. 1, 2019 – FRBP 5005.**

This item was not reached and will remain on the agenda.

**10. Review of Local Rules for Consistency/Cross-References/Updating,**

This item was not reached and will remain on the agenda.

**11. New Business/Matters/Issues.**

**12. Scheduling Next Meeting.**

- April 30, 2019 at 10:00