

MINUTES

United States Bankruptcy Court for the District of Maine Local Rules Committee Meeting June 19, 2018

Attendance: Mr. Leddy, Mr. Dudley, Mr. Morrell, Mr. Cope, Mr. Molleur, Ms. Beaudin, Ms. Economy, Mr. Sleeper, Mr. Hull, Judge Fagone appeared toward the end of the meeting

Missing: Mr. Creswell, Ms. Bopp-Stark

- 1. Approval of Minutes of Prior Meeting.** Minutes from the previous meeting are not yet available for approval.
- 2. Chair Announcements.** None
- 3. Clerk's Office Announcements/Updates.**

Electronic Evidence Presentation

Mr. Leddy reminded the committee of the training session on 06/29/18 for the new evidence presentation system located in Portland. He also stated that if you could not make it to feel free to call and have a one-on-one training session set up. Mr. Hull said that he had used it and it is quite impressive. He suggested that if you were going to use it for the first time to get in and have a dry run and overview the day or two prior to the hearing. Mr. Dudley asked if there was still a need for hard copies of evidences when using the new system. The answer is yes. Mr. Leddy indicated that the Court has not yet developed procedures for electronically admitting evidence.

Space & Facilities

Mr. Leddy reported that a large group from Washington, Boston, and Texas were in Portland recently looking at the District's space. The District of Maine is being considered for a new federal courthouse.

- 4. Procedure Regarding Application/Motion to Modify Confirmed Plans Under § 1329 of the Code, FRBP, and Local Rules.**

Mr. Leddy announced that as it stands, on a post-confirmation Modification to the Chapter 13 Plan, a Motion to Modify is required to be filed together with a form of order. The motion must be set for hearing and the Local Rule Form of the Modified Plan must be filed. The motion is what is to be set for hearing, not plan confirmation. If the motion is not set, there will be no hearing.

Some Committee members expressed reservation about this procedure, preferring instead that confirmation should be entered, regardless whether it is post-confirmation.

Substantial and extensive discussion was had on this subject with respect to Code §§ 1329 and 1325(a), including possible instructions when a modification is filed.

Mr. Dudley to draft a re-write of Local Rule 3015-1(b) based, in part, upon a local practice in the US Bankruptcy Court in Arizona.

5. Integration/Revision/Reformulation of Current MAD Procedure and Forms regarding same for Compliance with Current Form Chapter 13 Plan and Applicable Local Rules.

Discussion regarding the current plan confirmation/MAD process in Chapter 13. Possible elimination of modifications with the current MAD procedure. Some suggestion that claims objections should be resolved prior to confirmation and that confirmation order shall state what is being paid. Other members support current MAD process and that it sufficiently addresses which claims are to be paid. Certain members suggested that a report of claims could suffice. Chapter 13 Trustee's office working on a process that would harmonize current practice with Code and its requirements in this area, if any. Possible procedural paths and solutions being explored by the Committee. Perhaps a subcommittee should be created to review this issue. Mr. Molleur and Mr. Dudley to explore issue further.

6. Local Rule Procedure for Addressing Discovery Disputes in Contested Matters and Adversary Proceedings.

This has been resolved and will be removed from the Agenda.

7. Good Faith Consultation Language Revision Regarding Local Rule 9013-1(b) [Mr. Sleeper].

Final language agreed to regarding the addition of a timely, good faith effort to respond to request for consent. Mr. Sleeper moved for approval of changing the language in Local Rule 9013-1(b) to accommodate this. The Motion was approved by a majority of members.

8. Local Rule 2016-2 – Proper Application of Prepetition Retainers [Mr. Morrell].

Raised by a Committee member over concerns as to how retainers, especially in Chapter 13 cases, are being distributed. Specifically, whether there should be any disbursement from a retainer without court order. As it currently stands, potential ambiguity in Local Rule 2016-2 creating some confusion with practitioners.

Discussion that this Local Rule refers only to Chapter 11 cases, and that restricting access to retainers in Chapter 13 in the manner described would constitute a hardship on Chapter 13 debtors counsel. Discussion held over for next meeting.

9. Potential Revision and/or Practice Concerning Agreed Continuances Under Local Rule 9045-1 [Mr. Dudley].

Left for next meeting.

10. Local Rule 3002-2 – Administrative Expenses in Chapter 13 [Mr. Hull].

Left for next meeting.

11. Election for Small Business Case – Update Local Rules Regarding Same. [Mr. Creswell].

Left for next meeting.

12. Status of New Chapter 13 Procedures/Forms/Practice – General Issues and Discussion.

Left for next meeting.

13. Review of Local Rules for Consistency/Cross-References/Updating [Mr. Creswell].

Left for next meeting.

14. New Business/Matters/Issues.

Left for next meeting.

15. Scheduling Next Meeting.

Tuesday – September 25, 2018 at 10:00 a.m.