

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

Meeting Minutes–November 12, 2014, 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 November 12, 2014. 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., Michael A. Fagone, Esq., Peter C. Fessenden, Esq. (Standing Chapter 13 Trustee), Alec Leddy, Clerk of Court, Stephen G. Morrell (Assistant U.S. Trustee), Perry O'Brian, Esq., Richard A. Silver, Esq., and Andrea Bopp Stark, Esq.

Randy J. Creswell, Esq. was absent.

I. Approval of Minutes. Minutes of the April 29 and September 16, 2014 meetings were approved.

II. Chair Announcements

- a. Mr. Clement reported briefly about the recent District of Maine plenary and administrative meeting.

III. Clerk's Office Report

- a. Mr. Leddy reported that a number of changes to the Federal Rules of Bankruptcy Procedure, and to the official forms, will become effective on December 31, 2014. A summary of these will be posted on the Court's website.
- b. Next Gen CM/ECF will be rolled out in the District of Maine in the latter part of 2015. The changes will be significant and will require training. A few districts are already using the new version.
- c. The Court's website is being revised to comport with a more uniform template used by many other districts. The revised website will be live in early December.
- d. 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.

IV. Closing Cases – Streamlining Process

This item grew out of Mr. Morrell's concerns about the applicability of the "wet signature" retention requirement to recent streamlined procedures for reviewing Trustee File Reports and Trustee Distribution Reports. The streamlined process raises questions as to the maintenance of wet signatures, as required by Standing Order. Will the Trustees be responsible for keeping wet signatures on file?

Messrs. Morrell and Cope were appointed co-chairs of a subcommittee to analyze the current Administrative Procedures (described below) and make a recommendation as to whether the requirement of retaining wet signatures should be converted from a standing order to a Local Rule and whether changes should be made to the language of the Administrator Procedures.

The subcommittee will also make recommendations as to whether the requirements for joint motions should be modified, perhaps by the creation of a new tab in the CM/ECF system to permit a non-filing movant to confirm that the motion was in fact jointly filed.

The requirement that wet signatures be maintained is described in subparagraph II.D of the Administrative Procedures for Filing, Signing Maintaining, and Verifying Pleadings and Other Documents in the Electronic Case Filing (ECF) System, which was adopted pursuant to the Standing Order Regarding Administrative Procedures for Electronically Filed Cases, dated August 12, 2002.

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. Global Review of Local Rules

Ms. Bopp Stark gave a brief report following her review of the Local District Court Rules relating to bankruptcy practice. In particular, she is looking for ambiguities and lack of synchronization between the District Court Rules and the Local Bankruptcy Rules. It was decided to postpone further discussion of her findings pending Mr. Creswell's review of the Local Bankruptcy Rules.

VI. Chapter 12 Rules

Mr. Fessenden asked that this item be placed on the agenda for future meetings. The issue is whether the Local Rule should be amended to make Chapter 12 Practice similar or identical in appropriate respects to Chapter 13 practice. Mr. Fessenden will lead the review and discussion of this issue. Mr. O'Brian questioned the desirability of the Local Rule on motions to allow and disallow claims in Chapter 13 cases. He noted that the MAD process is not used in most other districts. It is expected that this issue will be reviewed in connection with recommendations regarding amended Rules for Chapter 12 practice.

VII. Brown Bag Lunch

Judge Cary asked whether another Brown Bag Lunch should be scheduled. The Committee believes this is desirable. Judge Cary intends to schedule one in the coming months.

VII. Next Meeting

The next meeting will be on Tuesday, February 3, 2015 at 10:00 a.m. in the Bankruptcy Court in Portland and the teleconference room at the Court in Bangor.