

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

Meeting Minutes – April 29, 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 April 29, 2014. Members of the Committee in attendance were: Judge Peter G. Cary, Alec Leddy, Clerk of Court, Richard A. Silver, Esq., Randy J. Creswell, Esq., Michael A. Fagone, Esq., Peter C. Fessenden, Esq., Standing Chapter 13 Trustee, Steven G. Cope, Esq., Perry O'Brian, Esq., Andrea Bopp Stark, Esq., and Darcie P.L. Beaudin, Esq.

The following members of the Committee were absent: Chief Judge Louis H. Kornreich and Stephen G. Morrell, Assistant U.S. Trustee.

I. Approval of Meeting Minutes.

The Committee met on February 25, 2014, and a Committee member recorded the minutes of the meeting. After some discussion about the purpose of meeting minutes and about the posting of the minutes to the Court's website, there was general agreement that the minutes should be revised. After the minutes were revised, the Committee would consider approval of them at its next meeting.

II. Chair Announcements.

Mr. Clement expressed the Committee's appreciation for Mr. Creswell's work as a member of the Committee.

III. Clerk's Office Report.

Mr. Leddy reported that the Court had adopted Local Rule 9045-1(d), regarding requests for continuances. This rule change will be discussed with the bar at a brown-bag lunch scheduled for April 30, 2014 in Portland.

Mr. Leddy discussed an anticipated effort by the bankruptcy courts within the geographic territory of the First Circuit to deal with changes to the Federal Rules of Bankruptcy Procedures and other sets of rules that effect bankruptcy practice. In the recent past, there have been more changes to rules, forms, and fees. There is going to be an effort to educate the bankruptcy bar about these changes in coordinated, uniform way.

IV. Continuations of Stay under §362(e) by Docket Entry.

This matter had been discussed at previous meetings. There was a general discussion about the most appropriate way for dealing with request for relief from the automatic stay, when the movant schedules the first hearing more

than 30 days after the filing of the motion. This implicates 11 U.S.C. § 362(e).

The Committee had previously discussed proposing a new local rule in order to address this situation. A revised draft had been circulated prior to the meeting. There was a general discussion about the draft and necessary changes.

There was a motion for approval of the revised language, as discussed at the meeting. The motion passed unanimously, although Chief Judge Kornreich's input on the draft local rule is required.

The Committee requested a revised version of the rule, which would be entitled "Stay Pending Hearing" and which, if adopted, would be located at Local Rule 4001-1(c)(3). [See Exhibit A attached hereto for the revised version].

V. 363(f) Motions Free and Clear.

Given the absence of a key Committee member working on this issue, this matter was continued to the next meeting.

VI. Closing Cases.

Given the absence of a key Committee member working on this issue, this matter was continued to the next meeting.

VII. Expansion of Motions for Enlargement without Hearing; LBR 9013-1(d)(1).

A member of the bar expressed concern about the types of matters for which an enlargement of time may be obtained without a hearing. This practitioner suggested that certain enlargements of time should be available without having the requests for enlargements set for hearing.

A Committee member requested a change to the language of Local Rule 9013-1 regarding the matters to be set for hearing. There was a lengthy discussion about enlargements of time and Rule 9006 in general. After an extensive discussion, the Committee determined that it would not suggest any change in the language. The motion was not seconded by any member of the Committee and, as a result, the motion did not pass.

VIII. Discovery Issues in Contested Matters: FRBP 9014 and Local Rule 9014-1.

Mr. Fagone and Ms. Bopp report that there has been some very preliminary work on this topic, but that additional work needs to be completed before their subcommittee (which includes Chief Judge Kornreich) is ready to

discuss this topic with the full Committee. They will report to the Committee at the next meeting.

IX. New Matters

Mr. Fessenden provided a brief update on the proposed national form of chapter 13 plan. He anticipates that the plan will be adopted sometime in or around 2016. Mr. Fessenden also described the National Data Center (www.ndc.org), an organization that collects data on chapter 13 cases. This organization provides a useful way for creditors to track information on plan payments and disbursements by chapter 13 trustees.

Mr. Fessenden raised a question regarding the form of order dismissing a chapter 13 case and the form of order converting a chapter 13 case to a chapter 7 case. In particular, there was a question about the chapter 13 trustee's duties with respect to undisbursed funds when a case is converted and the debtor's counsel's fees have not yet been approved by the Court. After an extensive discussion, the Committee concluded that any effort to harmonize the two forms of orders or to provide greater instruction to the chapter 13 trustee should come from the Court, not from the Committee.

X. Next Meeting:

The Committee set its next meeting for September 16, 2014 at 10:00 a.m. at the Bankruptcy Court in Portland.

Thereafter, the meeting adjourned.

Exhibit A

Proposed New D. Me. LBR 4001-1(c)(3)

(3) *Stay Pending Hearing.* A movant that schedules the first hearing on a request for relief from the stay more than 30 days after the date of the filing of the motion is deemed to have consented to a continuation of the stay, for purposes of 11 U.S.C. § 362(e)(1), until the first hearing on the motion.