

Chapter 11 Lawyers' Advisory Committee  
for the United States Bankruptcy Court for the Eastern District of New York

Minutes

Meeting Date: May 4, 2016

Location: United States Bankruptcy Court, EDNY (Brooklyn)

Attendees: See below

Chair Update and Approval of Minutes:

LAC Chair Thomas Slome ("Chair") opened the meeting. The minutes of the October 7, 2015 meeting were approved.

Board of Judges Update:

Chief Judge Craig provided information on Chapter 11 case filings in the district and reported on increases from last year.

Chief Judge Craig reported on her recent published decision, issued in the wake of the United States Supreme Court's decision in ASARCO, which distinguished ASARCO and allowed an award of fees incurred defending a fee application. The Committee discussed how practitioners are addressing the ASARCO decision in other districts.

Chair: Amendment of By Laws:

The LAC discussed a change to Article III, Section 2 of the By Laws to reduce the required yearly meetings for the LAC from four to three. A motion was made to amend the by-laws accordingly, which was seconded and approved by a voice vote. The word "four (4)" in Article III, Section 2 was changed to "three (3)".

Subcommittee/Project Reports:

*Large Chapter 11 Case Subcommittee:*

Fred Stevens reported on the subcommittee's preparation of drafts of a claims agent protocol and claims agent retention papers similar to that used in the SDNY and Delaware. The subcommittee discussed the proposed claims threshold for the use of these forms and other aspects of the protocol. Drafts had been circulated prior to the meeting and will be re-circulated for comment after the meeting. Thereafter, the LAC will confer with the United States Trustee (who has approved the protocol in SDNY and Delaware) and submit a proposal to the Board of Judges.

*Small and Medium Chapter 11 Case Subcommittee:*

Gerry Luckman and Bonnie Pollack reported on the subcommittee's current focus on the development of a counsel education project. Gerry led a discussion on various issues and ideas including: the implementation of a continuing legal education seminar to be offered up to two times a year in each of Brooklyn and Central Islip to educate counsel in small to medium size business cases, ways in which the Court can closely monitor and address counsel deficiencies, and involvement of the United States Trustee.

*Survey Project*

The LAC Chair reported on the status of the survey project, which is designed to gather feedback from the bar on Chapter 11 practice in the EDNY. The Chair noted that efforts to obtain feedback on an anonymous basis from local bar groups and bankruptcy committees were not successful. The Chair further reported that as a next step, the past and present voting members of the LAC had two in-person meetings to discuss possible ways to enhance the Chapter 11 practice in EDNY. The Chair provided a preliminary overview of these discussions. The survey project is continuing and it is expected that the voting members of the LAC will provide feedback to Chief Judge Craig for future discussion.

Discussion Topics:

A discussion on the changes to the Federal Rules governing discovery was deferred to a future meeting.

The Chair and Judge Trust led a discussion on the use of mediation in EDNY and the many issues that arise relating to mediation. It is expected that the discussion of mediation will continue at a future meeting.

Next Meeting:

The next meeting of the LAC will be on September 15, 2016 at the United States Bankruptcy Court in Brooklyn.

Attendees

Thomas R. Slome, Esq.

Lori Lapin Jones, Esq.

Christine Black, Esq.

Marty Bunin, Esq.

Mickee Hennessey, Esq.

Gerry Luckman, Esq.

Bonnie Pollack, Esq.

Robert T. Schmidt, Esq.

Fred Stevens, Esq.

Enid N. Stuart, Esq.

Burton Weston, Esq.

Hon. Carla E. Craig  
Hon. Nancy Hershey Lord  
Hon. Louis A. Scarcella  
Hon. Elizabeth S. Stong  
Hon. Alan S. Trust  
Robert A. Gavin, Jr., Clerk of Court  
Paul Dickson, Chief Deputy Clerk