

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

Minutes

Meeting Date: May 17, 2017
Location: United States Bankruptcy Court (Brooklyn)
Attendees: See below

Chair Update and Approval of Minutes:

LAC Chair Thomas Slome ("Chair") opened the meeting and introduced new member Michelle McGreal (Davis Polk & Wardwell LLP). The Chair also announced that Fred Stevens and Robert Schmidt will serve as Co-Chairs of the Large Chapter 11 Case Subcommittee and Leslie Berkoff will serve as Chair of the Mediation Subcommittee.

The minutes of the January 18, 2017 meeting were approved.

Board of Judges Update:

Chief Judge Craig provided information on case filings in the district as of the twelve-month period ending April 30, 2017 as well as the status of filings on a national basis. Judge Craig also reported that the Claims Agent Protocols recommended by the LAC were approved by the Board of Judges and have been posted on the Court's website. The Court is also working on a model Chapter 13 Plan.

Local Rules Project:

Ken Rosen and Michelle McGreal, both members of the District's committee reviewing the Local Rules, chaired by Judge Scarcella, reported on the status of the work of the committee to date. The committee has met in person twice and has divided local rules review among the members. The committee is also coordinating with their counterpart committee in the Southern District of New York. Among other matters, the committee is discussing whether to adopt a local rule providing for the use of a certificate of no objection and considering whether some or all General Orders should become Local Rules. The committee will meet again in June.

Subcommittee Reports:

Large Chapter 11 Case Subcommittee:

Since the last Committee meeting, the Claims Agent Protocol project concluded, was approved by the Committee, and adopted by the Board of Judges. There are no pending matters being addressed by this subcommittee. Fred Stevens and Robert Schmidt will review the recently adopted cross-border guidelines in the Southern District of New York and make a recommendation as to whether those guidelines, in whole or in part, should be adopted in the Eastern District of New York. Judge Craig noted that there have been several Chapter 15 petitions filed in this District.

Small and Medium Chapter 11 Case Subcommittee:

Subcommittee Co-Chair Bonnie Pollack informed members that at the recommendation of the Committee, the Judges are holding the initial status conference in Chapter 11 cases earlier than has previously been the case. The Judges discussed their experiences with the new scheduling and overall, reported that they found it to be beneficial. Bonnie also reported that since the last meeting, the Committee approved the Chapter 11 Counsel Education Workshop and this was endorsed by the Board of Judges. This Workshop will be held four times a year (twice in Brooklyn and twice in Central Islip) with the first program anticipated to be held in September 2017. The Committee discussed the best way to publicize the program. The Judges expressed their appreciation to the subcommittee for developing this program. The Chair requested that any small/medium case issues of interest be brought to the attention of the subcommittee.

Mediation Subcommittee:

The Mediation Subcommittee is led by Chair Leslie Berkoff and consists of Judges, Committee members and practitioners who are not members of the Committee. Leslie reported that there have been subcommittee meetings to address the multitude of mediation issues raised in prior Committee discussions. As a result of these meetings, the subcommittee has scheduled two brown bag lunches (May 20 in Central Islip and May 31 in Brooklyn) to address mediation. The discussions will address the benefits of mediation and are intended to be interactive sessions among the Judges and practitioners on mediation issues. Following these sessions, the subcommittee will meet again and begin formulating recommendations to the Committee.

Discussion Topics:

Second Circuit Judicial Council Committee on Civic Education & Public Engagement

LAC Vice-Chair Lori Lapin Jones provided an overview of the Second Circuit Judicial Council Committee on Civic Education & Public Engagement, on which she serves as a member. Lori explained the committee's mission, the work it is currently doing, and the availability of resources for Judges and practitioners involved in outreach to the community. Judge Stong, also a member of this committee, invited LAC Committee members to let her or Lori know if they

would like to serve as speakers for upcoming events at local schools. The website for the Second Circuit's committee is justiceforall.ca2.uscourts.gov.

Guest Speaker

David Banker, Esq. of Lowenstein Sandler LLP gave a presentation on recent litigation commenced by creditors' committees challenging liens held by pre-petition lenders. David led a substantive discussion on the various avenues that may be available to creditors' committees and trustees to free up assets as to which lenders assert liens.

Next Meeting:

The next meeting of the LAC will be on September 6, 2017 in Brooklyn.¹

Attendees

Thomas R. Slome, Esq.
Lori Lapin Jones, Esq.
Leslie Berkoff, Esq.
Christine Black, Esq.
Marty Bunin, Esq.
Mickee Hennessy, Esq.
Michelle McGreal, Esq.
Frank Oswald, Esq.
Bonni Perlin, Esq.
Bonnie Pollack, Esq.
Ken Rosen, Esq.
Robert Schmidt, Esq.
Fred Stevens, Esq.
Enid N. Stuart, Esq.
Hon. Carla E. Craig
Hon. Nancy Hershey Lord
Hon. Elizabeth S. Stong
Hon. Louis Scarcella (by telephone)
Hon. Alan S. Trust (by telephone)
Robert Gavin, Clerk of Court
Paul Dickson, Chief Deputy Clerk

¹ The September 6, 2017 date is a change from that announced at the meeting.