

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

Minutes

Meeting Date: May 9, 2018  
Location: Bankruptcy Court (Brooklyn)  
Attendees: See below

Chair Update and Approval of Minutes:

LAC Chair Thomas Slome ("Chair") opened the meeting. The minutes of the January 10, 2018 meeting were approved.

Board of Judges Update:

Chief Judge Craig provided information on case filings in the district. For the twelve month period ending March 31, 2018, the district had 400 new Chapter 11 filings which represented an increase by 62% from the prior twelve month period. Of these cases, 88 are taxi medallion cases that were transferred from the District of New Jersey to the Eastern District of New York. Excluding these 88 cases, there was a 26% increase in Chapter 11 filings in the district during the twelve month period ending March 31, 2018 from the prior twelve month period. In addition, 56 Chapter 11 cases were dismissed within the first 60 days after filing. During March 2018, a group of 21 healthcare cases filed in Central Islip. For all cases filed in the district during the twelve month period ending March 31, 2018, there was an increase of 20.5% from the prior twelve month period. On a national basis, there was a decline in case filings by 1.5%. The Eastern District of New York ranks 6<sup>th</sup> nationwide in number of Chapter 11 filings and 4<sup>th</sup> nationwide in Chapter 11 filings per judgeship.

Local Rules Project:

Judge Scarcella is overseeing the local rules project. LAC members Burton Weston, Christine Black and Michelle McGreal are members of the local rules committee. Michelle McGreal serves as Chair. The committee has a balanced membership which includes representatives from the Chapter 11, consumer, litigation and trustee bars. The Committee has reviewed and discussed all the local rules and expects to make recommendations to the Board of Judges this year. The approval process will require recommendation by the Board of Judges, a period of public comment, a review of any comments, adoption by the Board of Judges, and District Court approval.

## Subcommittee Reports:

### *Large Chapter 11 Case Subcommittee:*

There was no formal report from this subcommittee. The LAC previously approved Cross-Border guidelines which will be submitted to Judge Craig with a recommendation that the Board of Judges approve those guidelines.

### *Small and Medium Chapter 11 Case Subcommittee:*

Co-Chair Jerry Luckman reported that the next counsel education seminar will be June 5, 2018 at 9:15 a.m. in the Central Islip Federal Courthouse. The LAC discussed whether to have judicial participation at future counsel education seminars. The LAC also discussed how and where to publicize the education seminar.

### *Mediation Subcommittee:*

Co-Chair Leslie Berkoff reported on the status of the subcommittee's work on uniform mediation protocols. The subcommittee is continuing to discuss issues concerning the mediation approval process. The subcommittee recommends that consideration should be given to scheduling a brown bag lunch discussion on mediation issues. There was also discussion on the ABA's initiative to have e-discovery disputes resolved through a specialized mediator. The LAC discussed the utility of adopting that strategy for bankruptcy cases. The LAC consensus was that the Court should convene a brown bag lunch discussion on the topic of e-discovery issues.

## Discussion Topics:

### *Initiative to encourage participation by younger attorneys in the courtroom*

Judge Stong led a continued LAC discussion on an initiative to promote junior lawyers to advocate in the courtroom. Materials were circulated including District Judge Weinstein's local rule on this topic. LAC member Leslie Berkoff reported on discussions that local bar groups have been engaged in on this initiative. The judges and LAC members were very interested in adopting such an initiative in the district which could include a "mock courtroom" experience that would allow junior lawyers the opportunity to practice arguing motions before the Court. It is expected that the Board of Judges will adopt a policy to encourage junior lawyer participation in the courtroom and that the LAC will form a subcommittee to assist in implementing the policy.

### *Discussion of U.S. Trustee Practice*

LAC member Christine Black (Assistant U.S. Trustee for the Eastern District of New York) discussed a recent change by the U.S Trustee's office in the district. It is anticipated that Initial Debtor Interviews will now be conducted by telephone rather than in person. It was also recognized that debtors often have problems securing a bank that will comply with the collateralization requirements for holding Chapter 11 funds. Christine Black noted that TD Bank

has been receptive to holding Chapter 11 funds under the collateralization requirements and that her office will work with Chapter 11 debtor's counsel to address banking issues.

Next Meeting:

The next meeting of the LAC will be in the Fall and announced through an email.

Attendees

Thomas R. Slome, Esq.  
Lori Lapin Jones, Esq.  
Leslie Berkoff, Esq.  
Christine Black, Esq.  
Martin Bunin, Esq.  
Gerald Luckman, Esq.  
Michelle McGreal, Esq.  
Bonni Perlin, Esq.  
Robert Schmidt, Esq.  
Burton Weston, Esq.  
Evan J. Zucker, Esq.  
Hon. Carla E. Craig  
Hon. Louis Scarcella  
Hon. Elizabeth S. Stong  
Hon. Alan Trust  
Robert A. Gavin, Jr., Clerk of Court  
Paul Dickson, Deputy Clerk of Court