

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

Minutes

Meeting Date: October 7, 2015
Location: Brooklyn Law School
Attendees: See below

Chair Update and Approval of Minutes:

LAC Chair Thomas Slome ("Chair") opened the meeting and welcomed the attendees.

The Chair described future membership changes for the Committee, pursuant to the By-Laws governing membership terms.

The Chair reported that the Business Bankruptcy Committee of the New York City Bar Association has been asked to create a "best practices" manual for the Southern District of New York. The Chair indicated that there may be an opportunity for the Eastern District of New York bankruptcy court to be involved in these efforts, through the LAC. LAC members expressed support for this initiative.

The minutes of the April 22, 2015 meeting were approved.

Board of Judges Update:

Chief Judge Craig provided an overview of current case filings, and the prospect of budget cuts faced by the Court.

Subcommittee Reports:

Large Chapter 11 Case Subcommittee.

Subcommittee co-chair Leslie Berkoff reported that she and co-chair Robin Keller have prepared an updated draft of guidelines for pre-packaged Chapter 11 cases. The co-chairs plan to circulate the revised version of these guidelines to LAC members for their final comments, and thereafter, the voting members will vote on whether to submit the guidelines to the Board of Judges for approval and adoption.

The Committee reported that, despite efforts to generate interest, it has not received responses to surveys seeking comments on Chapter 11 practice in the Eastern District of New York that have been circulated among various bar and attorney groups. The Committee will revisit at a later date whether to continue these survey efforts. The Committee discussed alternative ways to solicit input from the bar, including the possibility of convening an informal session with its voting members to provide feedback to the judges.

The Subcommittee also reported that it continues to work on a first day hearing checklist. The Committee discussed ways in which such a checklist could be of value to practitioners and to the court. The Committee also discussed the timing issues associated with the initial status conference in a Chapter 11 case, and the possible benefits of an earlier date for the initial status conference were noted, including with respect to identifying issues and reducing costs.

Liaison Introduction: Alicia Leonhard

Alicia Leonhard, Assistant United States Trustee for the Eastern District of New York (Brooklyn), gave an informative presentation on the work of her office in Chapter 11 cases. Among other issues, Alicia informed the Committee that her office expects to conduct organizational meetings more often in Chapter 11 cases. She also noted that the United States Trustee attorneys in the Brooklyn and Central Islip offices make efforts to coordinate on procedures in Chapter 11 cases. The Clerk of Court will explore whether the attorney from the United States Trustee's Office assigned to a Chapter 11 case can be identified on the first page of the docket in a Chapter 11 case.

Discussion Topic – Why the Decline in Filings?: Ken Rosen

Ken led a dynamic discussion on the reasons for the decline in Chapter 11 filings, which reflects both a local and a national trend. Reasons identified include the costs, risks, length of time in bankruptcy, and availability of options, including attractive and low-cost financing options, outside of bankruptcy. It was noted that improving the efficiency and reducing the cost of the Chapter 11 process could be a significant benefit of the Committee's efforts, including its efforts to develop protocols and guidelines to permit greater predictability for debtors, lenders, and other parties in interest.

Next Meeting:

The next meeting of the LAC will be on January 13, 2016 at the Garden City Hotel.

Attendees

Thomas R. Slome, Esq.
Lori Lapin Jones, Esq.
Leslie A. Berkoff, Esq.
Patrick Thomas Collins, Esq.
Leah Eisenberg, Esq.
Salvatore LaMonica, Esq.
Alicia Leonhard, Esq.
Bonnie Perlin, Esq.
Kenneth Rosen, Esq.
Bonnie Pollack, Esq.
Robert Schmidt, Esq.
Enid Stuart, Esq.
Burton Weston, Esq.
Hon. Carla E. Craig
Hon. Louis A. Scarcella
Hon. Elizabeth S. Stong

Hon. Alan S. Trust
Robert A. Gavin, Jr., Clerk of Court
Paul Dickson, Chief Deputy Clerk