

LAWYER'S ADVISORY COMMITTEE
MINUTES
SEPTEMBER 26, 2002
TRENTON, NEW JERSEY

Chairperson Linda Schwimmer opened the meeting with Chief Judge Gambardella and Judge Ferguson in attendance. Absentees included: Hon. Stephen Stripp, John Scura, and Frank Vecchione.. Ms. Schwimmer welcomed new members Edward Paul and Patricia Staiano and opened the floor for nominations for the vice-chair position. Joseph Casello was unanimously selected.

The minutes from the meeting of June 27, 2002, were adopted with the following amendment. Added under the agenda item of **New Business** was the following:

A new committee was formed to look into issues surrounding creditors' inability to issue periodic billing statements without violating the stay. Members include Nona Ostrove, Leonard Wizmur, Mary Ellen Tully, and John Morton.

Committee Reports:

Ongoing Oversight of Local Rules- Joseph Casello reported that proposals for 8 minor, technical changes and 3 more substantive changes to the rules had been distributed to the members and would be made available on the LAC website. The LAC approved all of the 8 minor proposed changes for submission to the Board of Judges. The 3 substantive proposals include changes to D.N.J.LBR 1019-1, 9013-1, and 9072-1. These will be discussed further at the December LAC meeting. All of these proposals will be subject to the new local rule change procedures which are stated on the website.

Local Chapter 11 Rules Committee - Nancy Isaacson reported that the committee has not been very active, but praised the efforts of the First Day Orders Subcommittee (Bruce Buechler, Howard Greenberg, and Michael Sirota) for their work. She, Judge Gambardella, and Frank Vecchione will review the outstanding issues.

Chapter 13 Rules Committee - Leonard Wizmur distributed a proposed "Order on Motion/Application to Dismiss/Convert Chapter 13 Case" to include instructions on the distribution of funds held by the Trustee. Comments should be directed to Mr. Wizmur prior to the December LAC meeting. Discussion on amending Rule 4001 and proposed Local Form 16A for clearer vehicle loan/lease post-petition payment history was adjourned to the December meeting. Comments should be directed to John Morton. Linda Schwimmer raised creditor attorneys' concerns that they are required to appear at uncontested hearings on Chapter 13 stay relief motions only to have the debtor, in contravention to the rules, request an adjournment or raise a last minute defense without any proofs. Adjournments are granted, often for several weeks, costing the attorney hours of wasted time. It was the sense of the LAC that while this may be a problem, it is a calendar problem and a problem of enforcement of existing rules, and there is no need for additional rules.

On behalf of the Board of Judges, Judge Ferguson asked the committee to consider developing a standard order approving Chapter 13 sales, and a standard order for prospective relief and waiver of the 10 day stay.

Chapter 13 Standardized Plan- Judge Ferguson reported that the standardized plan was discussed extensively at the last judges meeting. The judges appreciate the work the LAC has put into this project and are very interested in the concept. The judges will meet again in the near future to continue working on it.

Creditors' Notice Committee- Nona Ostrove reported that the committee believes provisions are needed to allow creditors to issue periodic billing statements to debtors without violating the automatic stay. She will report further developments at the December meeting.

Clerk's Report: Jim Waldron reported that implementation of the electronic filing system (cm/ecf) is going well, but more participation from the Bar is necessary. He praised the efforts of the U.S. Trustee and the panel trustees for their cooperation and support. He reported that total filings for the 12-month period ending in August are down about 3% and Chapter 11 filings are down over 13%. The decrease in filings and a tighter budget forecast will lead to a reduction of 10 positions in the clerk's office making the need for more cm/ecf participation even greater.

Public Comment: Jim Waldron noted that only one attorney in New Jersey commented on the local rules proposals.

New Business: Jim Waldron announced that the Historical Society, in conjunction with the US Supreme Court Historical Society, was presenting a program which will feature a film on the "Camden 28" trial, to be held in the Camden Courthouse on October 24th.

The next Judge's Meeting is scheduled for December 12th.

The next LAC meeting is scheduled for December 10, 2002, location tba.