

**BANKRUPTCY PRACTICE COMMITTEE**  
**MARCH 9, 2017**  
**MINUTES**

The meeting commenced at 3:00 P.M. on Thursday, March 9, 2017. Rick Myers, and the law firm of McGill, Gotsdiner, Workman & Lepp, graciously hosted the meeting.

Committee members in attendance from the court were Judge Saladino, Joan Kramer, Donna Soukup, and Eva Roeber; Jerry Jensen from the United States Trustee's office; Kathleen Laughlin, the Chapter 13 trustee; Rick Myers, a Chapter 7 trustee; Don Swanson, chair of the Mediation Committee; John Lentz, current chair of the bankruptcy section of the NSBA; and attorneys Brandon Tomjack, Patrick Turner, and Katherine Owen. Judge Hastings, James Overcash, Dave Pederson, and Roxanne Alhejaj were not in attendance.

*Agenda Discussions*

1. Minutes. The minutes of the October 7, 2016, meeting were approved.
2. Committee Composition; Members. New members to the committee are: John Lentz, Richard Myers, Katherine Owen, and returning for another two-year term, Patrick Turner. The attorney group members appointed by the incoming chair shall serve for two years, and next year's chair will appoint an attorney for Brandon's spot. For the sake of continuity, the past chair of the bankruptcy section is invited to remain a member, and for clarification, rotating members and their terms are as follows:  
  
John Lentz, chair of the bankruptcy section (1st year)  
Roxanne Alhejaj, past chair of the bankruptcy section (2nd and final year)  
Brandon Tomjack (2nd and final year)  
Katherine Owen (1st of two years)  
Patrick Turner (1st of two years)
3. Mediation Committee Update. Don Swanson informed the group that in addition to being the chair of our court's mediation committee, he is a member of the mediation rules committee for the ABI. He provided an update on that committee's efforts to include specific mediation authorization in the federal bankruptcy rules. Mediation in Nebraska is slow at this time, however filings of Chapter 11 cases have recently increased and mediation activity may pick up.
4. Digital Signature Update. Jerry Jensen recapped further discussions he has had with the DOJ on its position of using digital signatures. The DOJ remains firm on its stand that verifying the authenticity of a digital signature on sworn documents would be difficult. The bottom line is that the DOJ wants a "wet" signature on sworn documents. Rick broached the subject of the burden and expense of retaining documents bearing original signatures. A discussion was held as to whether the local rule could be modified to allow electronic storage of files bearing an electronic signature. Eva will canvass other courts on their policies regarding digital signatures and retention of documents.

A subcommittee consisting of Eva, Jerry, and Rick was appointed to further research the use of digital signatures, the retention of sworn statement documents, and proposed changes, if any, to Local Rule 9011-1.

5. Chapter 13 Plan Update. Kathy Laughlin explained the process the subcommittee went through in drafting a new local Chapter 13 plan to be compliant with the provisions of the proposed national rules and plan. Subcommittee members are: Kathy Laughlin, Brandon Tomjack, Roxanne Alhejaj, Tom McGuire, Matt Eck, John Turco, Sam Turco, and John Lentz. The subcommittee members were in unanimous agreement that the revised local plan is better than the national plan, and should be adopted as the local standard plan on or before December 1, 2017. Kathy will send the revised plan out to the bar for comments with a response deadline of 30 days. After comments have been reviewed and changes made, if any, Judge Saladino and Eva will work to incorporate the changes into the local rules and prepare a general order. Education on the new plan and changes to Rule 3015/Rule 3015.1 was proposed by John Lentz. He suggested this could be conducted by a webinar through the NSBA and that mentor attorneys from the subcommittee could assist members of the bar with questions and concerns.

On a related Chapter 13 issue, Judge Saladino asked whether the committee had heard of any concerns regarding the “No-Look” fee. Judge stated that the ALC fees seem to be a problem for some attorneys in that they are trying to use ALC fees to find ways to get extra fees. It appears they are working hard to pigeonhole what they are doing to ALC fees rather than the standard allowable amount fees. Kathy stated that the Chapter 13 fees in Nebraska are pretty much in line with other districts within the Eighth Circuit.

6. Clerk’s Office Update.

A. e-Reaf. Eva Roeber stated there is a new electronic filing option for creditors to file reaffirmation agreements electronically without having a limited user login and password. The option is “eReaf” and is similar to the e-filing claims option “ePoc.” The e-filing option for reaffirmation agreements is meant to be used by creditors and not attorneys who have a login and password.

B. NextGen. Eva also provided an update on NextGen, stating that attorneys will be required to update their Pacer accounts before they are able to access the ecf system. As courts begin using NextGen, through an individual’s Pacer account, users will have to request permission from each court in order to file pleadings. However, once you are linked up, you will have access to all the different courts within which you work. At this time, there is no firm set date when the court will go live with NextGen.

C. Interpleader. Eva stated that last fall the clerk’s office sent out a new general order regarding interpleader funds, which are part of the court’s registry funds. However, interpleader funds will need to be designated as such, and will be segregated from all other funds held in the registry.

7. Other Business.

A. Combined Hearing on Chapter 11 Disclosure Statement and Plan. Judge Saladino discussed Delaware's Chapter 11 process of combining hearings on the plan and disclosure statement for all Chapter 11 cases, not just small business cases. Judge suggested that the committee review the local rules of Delaware to determine whether we should consider changes to our Chapter 11 procedure.

Subsequent to the meeting, Rick Myers sent an email to the committee stating that he is involved in a New York bankruptcy case where the same practice is utilized. For those wishing to view the applicable orders, etc., see *In Re: DACCO Transmission Parts (NY), Inc., et al.*, Case No. 16-13245 (MKV) (S.D.N.Y.). Filing 336 is the notice of the combined hearing for debtor's amended plan and disclosure statement in a single hearing.

B. Brown Bag Lunches. Judge Saladino asked whether there was an interest in having brown bag lunches again, and whether the bankruptcy section would be interested in coordinating those to coincide with the NSBA's October annual meeting. Alternatively, the bankruptcy section could meet for breakfast, lunch, or after-hour meetings to discuss bankruptcy issues and concerns the attorneys may have.

Subsequent to the meeting, John Lentz sent an email to the bankruptcy attorneys inquiring if they would be interested in participating in such a meeting. Depending upon the responses John receives, he will look further into scheduling a meeting of some sort.

C. Internet Service Lincoln 341 Room. Rick Myers inquired why Lincoln's 341 room has no wifi. Jerry explained that the room is rented from GSA, and GSA does not provide wifi in that building. The Federal Practice Committee does, however, pay for attorney wifi that is available in the bankruptcy courtroom in Lincoln. Judge suggested that future 341 hearings could be held in the Lincoln bankruptcy courtroom. Eva and Jerry will work out scheduling. (Determined after the meeting, 341 hearings will be scheduled in the Lincoln courtroom beginning in June 2017.)

The meeting adjourned at 4:30 P.M. Special thanks go out to Rick and his firm for hosting the meeting and providing cookies and beverages. The next meeting will likely be held in September 2017.