

Minutes of the Bankruptcy Practice Committee

March 11, 2024 – Zoom Conference

Judge Kruse called the Zoom conference meeting to order on March 11, 2024. Those in attendance included Judge Brian. Kruse, Clerk of the Court Eva Roeber, Lisa Smith, Deb Kalamaja, Joan Kramer, U.S. Trustee Jerry Jensen, Chapter 13 Trustee Erin McCartney, Chapter 7 Trustee John Stalnaker, NSBA Bankruptcy Section Chair Thomas Ashby, NSBA Bankruptcy Section Past-Chair David Koukol, Camille Hawk, John Lentz, Matt Pederson, Don Swanson, Sam Turco.

Approval of Minutes from October 5, 2022 Meeting – Judge Kruse

The meeting minutes from October 5, 2022, were approved.

Report from NSBA Bankruptcy Chair – Tom Ashby

Mr. Ashby thanked the committee and colleagues for their support during his wife's illness. He thanked Judge Saladino for being a good model while supporting his parents. The bankruptcy section seminar will be held March 28 in Kearney. Sam King headed seminar subcommittee.

Mr. Ashby and Eva discussed communications with Douglas County District Court regarding the automatic stay, pretrial orders, and case dismissals. Camille Hawk stated she experienced an automatic dismissal in the past as well.

Mr. Ashby welcomed Camille Hawk and John Lentz, who were appointed to the committee to fill the vacancies of Ms. Abell-Brown and Ms. Davidson.

Corporate Transparency Act – John Stalnaker

Beginning January 1, 2024, the Corporate Transparency Act requires certain types of entities to file a beneficial ownership information with the Financial Crimes Enforcement Network (FinCEN), a bureau of the Department of the Treasury. The purpose of CTA is to avoid tax evasion and money laundering. The trustees asked whether they must file the report for the debtor. The problem is the information to file the report is not always available. It was noted the issue is being litigated in North Carolina and in the Northern District of Alabama. Jerry Jensen expects guidance on this issue soon.

After further discussion Judge Kruse suggested the following options 1) Relieve the trustees completely from any obligation by a General Order. 2) Require debtors to provide information to trustees along with their filings as part of a General Order; 3) Require the debtor to certify compliance; or 4) wait for further guidance.

Zoom 341 Meeting Update – Jerry Jensen

Mr. Jensen reported Zoom 341 Meetings for Chapter 7, 12 and 13 cases will begin the first week in June. The first 341 Meeting notices with Zoom information will start May 1, 2024. He thanked Eva, Lisa and the court for working with the Trustee's office to get procedures in place. Training for the bar will occur the last two weeks of May. Chapter 11 cases will continue telephonically, but they will be switched to video format next year. An in person 341 Meeting may be held if requested and approved by the U.S. Trustee. After the meeting occurs the trustees will decide whether to conduct a second meeting in person. Sam Turco asked if calling in by phone was an option or must they appear by video. Jerry said the option is available but is discouraged. The purpose of ZOOM is for the trustee to see the person testify.

Mediation Update – Don Swanson

A Subchapter V task force issued a preliminary report recommending Congress make the \$7.5 million debt limit permanent. Otherwise, it will decrease to \$3 million. The Uniform Law Commission is working on a uniform law regarding assignments for the benefit of creditors. Nebraska used to have one but doesn't any longer. This is in the drafting committee stage. Congress is considering revision Rule 9031 to make special masters applicable in bankruptcy.

Report from Clerk of the Court – Eva Roeber

Eva Roeber reported there is a nefarious party filing improper Chapter 15 cases throughout the U.S. Three or four courts around the nation opened the cases. Nebraska did not and returned the cases.

The court has significant unclaimed funds. The majority are from Chapter 13 cases. Nefarious parties are filing to recover the unclaimed funds using false notary stamps, and fraudulent driver's license information and account numbers. The Clerk is personally responsible if funds are improperly paid. Judge Saladino and Eva monitor the unclaimed funds closely.

Judge Kruse apologized for not letting the U.S Trustee know about the Ch. 15 cases. Jerry was aware of the Ch. 15 filings. He said there is presently a criminal investigation going. If a new one comes in, information will be forwarded on to the U.S. Trustee's office. The Ch. 15 filings were not foreign proceedings.

Other Business

The next committee meeting will be held contemporaneously with the Bankruptcy NSBA Practice Meeting in October 2024.

The meeting concluded at 1:02 p.m.