

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

Minutes

Meeting Date: June 29, 2021
Location: Via Zoom Meeting
Attendees: See below

Chair Update and Approval of Minutes:

Chair Michelle McGreal asked for comments on the minutes of last meeting, there being none, a motion was made for approval of the minutes of the last meeting – the minutes were approved.

Board of Judges Update:

Chief Judge Trust advised that the Court is beginning its reopening process. Judges have been working from Chambers, still mostly telephonic hearings and some Zoom hearings. Chapter 11 filings (380 pending) are down. There are 42 Subchapter V filings pending in the district, 37 are new filings. There are 524 adversary proceedings pending, 384 of those were filed in the last 12 months. There are also class action lawsuits and Ponzi scheme cases pending.

Frank Oswald discussed how he was involved in an in-person hearing in the Bankruptcy Court for S.D.N.Y. – vaccinated people were pre-cleared to appear. All needed to wear masks in common areas. The courtroom had plexiglass partitions for counsel and witnesses. The Courtroom was limited to 23 people.

Marylou Martin and Christine Black reported that they wanted to coordinate with the committee to present a program on the new data embedded operating reports that are being required by their office. There is also a new event for e-filing of a new operating report and new post confirmation report. Training will be conducted in September.

Small and Medium Chapter 11 Case Subcommittee:

The subcommittee on Subchapter V cases by Committee member Tom Slome, reported on a study conducted by the subcommittee regarding the issues presented in such cases. The subcommittee discussed the value of such cases, controlling administrative costs, the type of small business plans filed and how the cases may be kept on a fast track as intended.

Mediation Subcommittee:

Andy Thaler advised that the mock mediation training session held on March 26, 2021 went over very well, with about 90 people attending. Leslie Berkoff added that Judges Stong, Scarcella and Trust participated and that there was a lot of audience participation through questions for attendees. The next program is likely to be scheduled in the Fall.

Junior Lawyers Initiative Subcommittee:

The Committee reported that virtual format was very successful with over 66 people in the general meeting room. There was nice feedback from participants. Other jurisdictions have also inquired about participating. The first virtual session was over sold and people from out of state have to wait for a second session to be scheduled. Chief Judge Trust commented that there is far less attrition with the virtual format and that a hybrid system may continue to work better to maintain participation rates. Judge Scarcella added that he was impressed with the level of participation and that the program was very successful. Judge Stong noted that the Bankruptcy Committee of NCBJ is considering this program and that the feedback has been extraordinary.

The Committee is considering when to schedule the next session.

Large Chapter 11 Committee:

The Subcommittee had nothing new to report and is considering its next project.

General Discussions:

Committee member Lori Jones led a discussion on the conversion or dismissal of chapter 11 cases and when it may be more appropriate to appoint a chapter 11 Trustee. She addressed how chapter 11 Trustees are appointed and issues they face. A major concern regarding a conversion of a case and a trustee appointment is the limitation period to bring avoidance actions and how long the case has been pending.

Old Business:

None.

New Business:

None.

Next Meeting Date:

Schedule TBD.

Attendees:

Michelle McGreal, Esq.
Robert Schmidt, Esq.
Lori Schwartz, Esq.
Enid Stuart, Esq.
William C. Heur, Esq.
Dawn Kirby, Esq.
Gerard Luckman, Esq.

Frank Oswald, Esq.
Leslie Berkoff, Esq.
Christine Black, Esq.
Thomas Slome, Esq.
Martin Bunin, Esq.
Mickee Hennessy, Esq.
Holly Holacek, Esq.
Evan Zucker, Esq.
Lori Lapin Jones, Esq.
Bonnie Pollack, Esq.
Phillip Khezri, Esq.
Andrew Thaler, Esq.
Marylou Martin, Esq.
Sheryl Giugliano, Esq.
Anthony Giuliano, Esq.
Fred Stevens, Esq.
Burton Weston, Esq.
William Curtin, Esq.
Paul Dickson
Robert Gavin
Hon. Jil Mazer-Marino
Hon. Elizabeth Stong
Hon. Nancy Lord
Hon. Alan S. Trust
Hon. Louis A. Scarcella
Matt Mailloux, Esq.