

# NORTHERN DISTRICT OF ILLINOIS BANKRUPTCY COURT LIAISON COMMITTEE

DECEMBER  
2012

## COMMITTEE UNDERTAKES ANALYSIS OF COURT PROCEDURES

The Bankruptcy Court Liaison Committee recently created a survey to gather feedback on ways to improve the local practice in the United States Bankruptcy Court for the Northern District of Illinois. The comments and ideas generated by participants will be reviewed and shared among committee members and then formally presented to the Bankruptcy Judges and representatives from the United States Trustee's Office.

We would appreciate you taking the time to fill out this survey and spreading the word to your colleagues. The survey can be filled out on-line at [www.surveymonkey.com/s/GWMFQ6F](http://www.surveymonkey.com/s/GWMFQ6F). Please help the Committee out by providing all responses on or before December 22.

We appreciate your time and look forward to receiving your input. Together, we hope to make a difference in improving our local practice!

*Remember the Bankruptcy Court Liaison Committee is here year-round to serve as your conduit for suggestions for improvements in practice to the judiciary.*

*The Committee meets each month with members of our local Bench. Recent discussions have included problems with ECF filing, the model fee agreement, and employment of investment bankers.*

*What's on your mind? Can we answer a question or suggest a change?*

### Contact us:

#### Co-chairs:

**Jonathan T. Brand**  
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Or send us email:

[Bankruptcyliasoncommittee@gmail.com](mailto:Bankruptcyliasoncommittee@gmail.com)



## Annual Bankruptcy Court Liaison Committee

### Bench-Bar Holiday Party

Thursday

December 13, 2012

5:30 – 8:00 p.m.

Jenner & Block

353 North Clark Street

Please RSVP to

[spriusich@jenner.com](mailto:spriusich@jenner.com)



## NORTHERN DISTRICT OF ILLINOIS

### NEW PROCEDURES FOR EMERGENCY MOTIONS

In an effort to make the process more uniform, starting October 1, 2012, the Northern District of Illinois Bankruptcy Court has changed its procedures for filing an emergency motion. This change is contained in General Order 12-01, and likely will become a part of the Local Bankruptcy Rules in the near future.

Prior to this change, most judges permitted an attorney desiring to file an emergency motion to contact the Judge's chambers seeking permission to file the motion. Upon approval of a date and time, counsel would file the emergency motion.

The General Order has added a formalized a consistent emergency motion procedure. **The attorney or pro se debtor must now file an Application to Set Hearing on Emergency Motion.**

The Application must 1) state the reasons the motion should be considered an emergency, 2) state the proposed timeframe for hearing the motion, and 3) attach the actual emergency motion. The Application is **not** noticed for hearing and no response is required. The moving

party must contact the Judge assigned to the case or, if that Judge is not available, the Emergency Judge to have the Application granted. Parties who object to the motion being heard as an emergency may raise that objection in their response to the emergency motion or the hearing on the motion.

If the application is granted, the moving party must file the Emergency Motion with the appropriate notice and certificate of service, including immediate notice via phone, fax, or personal service on all parties entitled to notice.

If the Application to Set Hearing on Emergency Motion is denied then the motion may still be brought to hearing in accordance with Rule 9013-1, subject to standard notice requirements.



#### Disclosure of Voluntary *Pro*

*Bono Service.* As part of registering, each lawyer shall report the approximate amount of his or her *pro bono* legal service and the amount of qualified monetary contributions made during the preceding 12 months.

If you have submitted your Illinois ARDC registration and dues for 2013, you have seen Illinois Supreme Court Rule 756(f) in action. If you had to answer “no” to the questions about *pro bono* services, the Liaison Committee can help. In 2013, try ...

**Bankruptcy Court Volunteer Attorney Panel** — [http://www.ilnb.uscourts.gov/VAP/Volunteer\\_Attorney\\_Panel.pdf](http://www.ilnb.uscourts.gov/VAP/Volunteer_Attorney_Panel.pdf)

**Bankruptcy Court Help Desk or Pro Se Clinic** — <http://www.lafchicago.org/content/view/38/84/>

**CARE: Credit Abuse Resistance Education** — email Allen Guon [aguon@shawgussis.com](mailto:aguon@shawgussis.com)

or Joseph Schorer [jschorer@kirkland.com](mailto:jschorer@kirkland.com)

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**BANKRUPTCY LIAISON COMMITTEE**

## **NATIONAL MORTGAGE FORECLOSURE SETTLEMENT**

Those on the cutting edge of consumer bankruptcy practice need to be familiar with the National Mortgage Settlement entered into early this year. Ally/GMAC, Bank of America, Citi, JPMorgan Chase, and Wells Fargo entered into an agreement to try to ensure fairness to borrowers, including those in default and those in bankruptcy.

Bankruptcy practitioners can expect the following important changes made, pursuant to the consent judgments entered into by each of the five defendants:

- If a proof of claim is filed containing materially inaccurate information, the servicer may not stand on its proof of claim but shall, at its expense, amend its proof of claim as promptly as reasonably practicable after acquiring actual knowledge of the inaccuracy, but this correction must take place within 30 days and must include the provision of appropriate written notice to the borrower or the borrower's counsel;
- Servicers must, unless prohibited by statute or local rule, attach to their proof of claim a copy of any mortgage or deed in trust, copies of any assignments of mortgage or deed, or, if the note has been lost or destroyed, an affidavit stating this;

- If filing a motion for relief from the stay, the servicer must provide this information if it hasn't already been provided with the proof of claim. In the event of a motion for relief, the servicer is required to check for recent payments within two business days of the hearing on the motion for relief;
- Servicers must establish, and make available to chapter 13 Trustees, a toll-free number staffed by individuals trained in bankruptcy to respond to inquiry from the Trustees' offices.

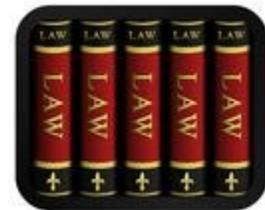
Because the Settlement imposes new standards to ensure the accuracy of information provided in bankruptcy court, including pre-filing review of more documents, a vast overhaul is taking place. New procedures are being implemented, and new employees are being hired — which might take time. Not all federal districts are identical but the five lenders in question are national, so each lender has to learn the nuances of each district. Judges, debtors, and attorneys: note that Chapter 13 plan confirmation hearings (and debtors' attorneys' fee applications) might need to be continued because procedures have changed.

How to file a proof of claim, in essence, needs to be re-learned. See for yourself! Review the details at <http://www.nationalmortgageSettlement.com>.

## *Committee Welcomes New Judge*

Thomas M. Lynch of Faegre, Baker, Daniels LLP will be joining the federal bench, replacing the retiring Judge Manuel Barbosa, from the Northern District of Illinois, Western Division.

Best wishes to Judge Barbosa and good luck to Judge Lynch.



## **DID YOU KNOW?**

Effective November 21, 2012, some filing fees have changed.

The Administrative Procedures for CM/ECF have been amended, effective November 1, 2012.

Keep your eye on the Bankruptcy Court's announcement page:

[HTTP://WWW.ILNB.USCOURTS.GOV/ANNOUNCEMENTS/INDEX.CFM](http://www.ilnb.uscourts.gov/ANNOUNCEMENTS/INDEX.CFM)

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## COMMITTEE TAKES A STAND ON SEQUESTRATION

Heeding Chief Judge Holderman's call to speak up on the danger to the administration of justice posed by threatened cuts to the judiciary budget if Congress and the President do not reach an accord on spending, the Bankruptcy Court Liaison Committee sent the following to the Senators and members of the House of Representatives representing the Northern District of Illinois:

*On behalf of the Northern District of Illinois Bankruptcy Court Liaison Committee, we urge you to act now to adopt a budget within the terms of the Budget Control Act and end the threat of automatic budget cuts. Sequestration would be damaging to access to the courts and, in particular, to access to the bankruptcy courts. The Bankruptcy Court Liaison Committee is comprised of attorneys representing both creditors and debtors, from individual consumers to multinational corporations. A membership list of the Committee is attached.*

*In addition to the concerns voiced about the effect of sequestration on timely hearings in district court, closing the federal courts one day per week causes particular problems in bankruptcy cases. As you know, bankruptcy law provides debtors – consumers or businesses – with two benefits: an automatic*

*safe haven from lawsuits and collections and an opportunity to restructure or discharge debt to obtain a fresh start. Over 46,000 bankruptcies of all types have been filed in the Northern District of Illinois so far this year.*

*Both the safe haven and fresh start functions of bankruptcy law require ready access to the courts. Business debtors need court approval of restructuring plans and proposals to enter into contracts or sell assets. A twenty percent reduction in available court dates will significantly delay the speed at which businesses will be able to restructure and re-enter the economy from bankruptcy.*

*Access to the courthouse is especially critical for debtors who file bankruptcy for the safe haven protection. This automatic stay can stop mortgage foreclosures, auto repossessions, and evictions. Unfortunately, many consumer debtors learn of this protection late and must file their bankruptcies at the last minute. About 6% of bankruptcies filed so far this year in the Northern District have been filed by consumers without an attorney.*

*These debtors would be particularly hurt by closing the clerk's office as they must file their petitions in person. The Pro Se Bankruptcy Help Desk, funded by the Chicago Bar Foundation, advises that most days it sees a debtor with an urgent problem in need of an emergency bankruptcy petition.*

*We appreciate the challenges presented by current budget difficulties. But we urge you to reach compromise on a budget and prevent the risk to our justice system presented by sequestration.*



To see Chief Judge Holderman's statement on sequestration to the Chicago Bar Association, go to:

<http://www.chicagobar.org/AM/NavigationMenu/Home1/HomepageFiles/SequestrationLetter.pdf>

or the CBA's response, go to:

<http://www.chicagobar.org/AM/NavigationMenu/Home1/HomepageFiles/SequestrationLetterCBAPresident.pdf>