

THE BANKRUPTCY COURT LIAISON COMMITTEE DECEMBER 2009 NEWSLETTER

Introductory Statement regarding the Committee and Newsletter

The Bankruptcy Court Liaison Committee was formed several years ago and is comprised of a diverse group of attorneys practicing bankruptcy law. Half of the Committee members are selected each spring by the Committee from attorneys expressing an interest in serving on the Committee, and each member generally serves a two-year term.

The Committee was formed to promote communication about Court procedures, etiquette, filings and other issues, and to assist the Court and attorneys in creating a more efficient environment. Additionally, the Committee develops and sponsors educational programs concerning issues affecting the bench, attorneys, financial institutions and consumers. The Committee also creates social opportunities to allow greater interaction between the Court and those who appear before it. The Committee provides an opportunity to relay issues, concerns or ideas to the Committee – anonymously – through any of the Committee Members. The information will then be presented to the Bankruptcy Judges for their review and consideration.

The Committee has decided to post this Newsletter so that members of the Bar are aware of the types of topics that are discussed at the Committee meetings, and can offer their input regarding the same. If you have any suggestions, questions or concerns, please do not hesitate to contact one of the Committee Members. Contact information for the Committee Members can be found on the Court's website through the link to the Bankruptcy Court Liaison Committee. Please submit your comments or questions to the Committee Members, and not to Judges who are invitees of the Committee.

Chapter 7 Trustees' Document Preferences for Section 341 Meeting of Creditors

One concern that members of the Bar have expressed to the Committee is the need for a centralized list of each Chapter 7 Trustee's document delivery policy to assist the Debtors' attorneys in preparation for the Section 341(a) Meeting of Creditors. The Committee discussed the issue, and has decided to work with the U.S. Trustee's office to create a list of every Chapter 7 Trustee and his or her preferences for obtaining the required documents. The content and location of this list are still under discussion.

"Loss Mitigation" Program

The Committee has discussed the potential implementation of a "Loss Mitigation" Program in our District. Loss mitigation covers loan modification, loan refinance, forbearance, short sale, or surrender of the property in full satisfaction. A program of this type is already available to debtors and creditors in the Southern District of New York. Under the New York Program, which primarily applies to Chapter 13 cases, while recognizing that a bankruptcy court cannot order the parties to reach an agreement, the court has the ability to order the parties to confer with each other in a good-faith effort to resolve, or narrow, the issue. The request for loss mitigation can be initiated by either a debtor, a creditor, or ordered by the court. Under the New York Program, any relevant party has an opportunity to object to the loss mitigation. The Committee would value Bar members' input regarding the merits of implementing such a program in our District.

Debtor's Original Signature on Post-Petition Documents

A concern which has been expressed to the Committee is a perceived lack of compliance with the requirement that in filing various post-petition documents, there needs to be a declaration or verification page filed concurrently which contains a Debtor's original signature. Rule 1008 of F.R.B.P. mandates verification or an unsworn declaration for certain filings such as amendments to schedules. Also, Rule II.C.1.b of the Electronic Case Filing System of the Court states that any electronically filed documents which are filed subsequent to the bankruptcy petition must have an original signature of the party on whose behalf the document is being filed. Many filings made subsequent to the Petition contain no signature or merely contain a Debtor's electronic signature. However, the Debtors have no ability to sign electronically, as only attorneys can do so, and therefore an original signature is often necessary.

Changes regarding the Computation of Time

The Committee wants to remind members at the Bar that effective December 1, 2009, the Federal Rules, including Federal Rule of Bankruptcy Procedure 9006, will be amended regarding the Computation of Time. Pursuant to the new Rules, all time will now be calculated as "days-are-days" and weekends or holidays will no longer be skipped. Under the new rules, all periods of time shorter than 30 days are revised to be multiples of 7. For the most part, 5 day periods become 7 day periods, 10 day periods become 14 day periods. Some rules with shorter deadlines, such as 1 day become either 7 or 14 days. Other deadlines such as 20 days, become 21 days. Additionally, the amendments clarify that unless a statute, local rule or court order states otherwise, the last day of a period for an electronic filing ends at midnight of the court's time zone, while the last day for a paper filing (which of course no longer applies to Bar members in our District) ends when the clerk's office is scheduled to close.

Pro Bono Opportunities and the C.A.R.E. Program

The Committee encourages members of the Bar to consider joining the U.S. Bankruptcy Court Volunteer Attorney Panel to represent indigent parties on a pro bono basis in discrete adversary proceedings and contested matters. Additional information and a link to join the panel can be found on the Court's website through the link to the Volunteer Attorney Panel.

The C.A.R.E. Program (Credit Abuse Resistance Education) is a nationwide free financial literacy program which makes bankruptcy professionals available to local high schools to illuminate the damages of credit abuse. The C.A.R.E. program in our District has been in existence for several years and is continuing to expand its presence in new schools with some exciting new opportunities on the horizon. Volunteers in the C.A.R.E. Program travel to the local schools and make presentations to the students utilizing power point presentations, games and "war stories." If you are interested in this productive and rewarding opportunity, please contact Joe Schorer (jschorer@kirkland.com) or Allen Guon (aguon@shawgussis.com) for additional information.

Year-End Holiday Party

The Bankruptcy Court Liaison Committee held its annual year-end holiday party on Thursday, December 17, 2009. The reception was well attended by practicing bankruptcy attorneys, law clerks and judges. Please watch for future newsletters and announcements from the Committee on the Court's website.

R. Scott Alsterda, Chairperson
Bankruptcy Court Liaison Committee