

MINUTES OF MEETING OF  
STANDING LOCAL BANKRUPTCY RULES REVISION COMMITTEE  
DISTRICT OF COLORADO, BANKRUPTCY COURT  
February 12, 2019

A regular meeting of the Standing Local Bankruptcy Rules Revision Committee was called to order at 12:02 on Tuesday, February 12, 2019, by Chair Ted Hartl.

Attendance: The following Members, Ex-Officio Members and Judicial Advisors attended in person or by phone:

**Members**

Ted Hartl, Chair  
Bonnie Bell Bond, Whip  
Joli Lofstedt  
Steven Mulligan  
Tara Salinas  
Michael Suchoparek, Secretary

**Ex-Officio Members**

Jennifer Cruseturner, Vice Chair  
Kenneth Gardner  
Adam Goodman  
Ross Hoogerhyde  
Doug Kiel  
Paul Moss  
Margaret Muff  
Steve Nichols  
Nicholas Santarelli  
Danielle Urban

**Judicial Advisors**

Judge Thomas McNamara  
Judge Joseph Rosania

1. Vote on approval of minutes from meetings held on November 13, 2018.
  - (a) Tara Salinas moves, Bonnie Bond seconds, approved
2. Report of Committee Chair
  - (a) Ted Hartl: Inclination is to leave rules as is unless the court/judges have suggestions
3. Report of Judicial Advisors

- (a) Judge McNamara
    - i. Agrees should leave rules as is as much as possible.
    - ii. Seems that everything is working for the benefit of court and practitioners.
    - iii. If there are rules that need to be adjusted, the bench continues to be open to suggestion.
    - iv. Current big issue for court: funding lapse/government shut down
      - 1. Tried to keep everything going as much as possible
      - 2. Hopefully not too disruptive
  - (b) Judge Rosania
    - i. Discovery dispute rule: recently handled case using under this rule. Took evidence for a few days, awarded discovery, motion for sanctions because lack of notice.
    - ii. Small chapter 11 bill recently introduced, which might be a subject for future rules consideration
4. Reports of Active Subcommittees: N/A
5. Pending Committee Matters:
- (a) Nomination and appointment of Secretary, Michael V. Suchoparek, and updated committee membership list.
    - i. Mike Suchoparek to take over as Secretary as of next meeting
    - ii. Jen Cruseturner needs to be moved to Ex-Officio member on the committee membership list
    - iii. Send changes to Ted Hartl
  - (b) Review and approval of revisions to L.B.R. 9036-1(e) governing process to terminate CM/ECF notices for attorneys for non-debtor parties and L.B.F. 9036-1.3.
    - i. Tara Salinas moves to adopt, Bonnie Bond seconds, no opposition, passes, to be recommended to judges for approval.
    - ii. Judge McNamara: rules cycle indicates that this would go to district court for review for potential implementation 12/1/2019.
    - iii. Ken Gardner: Attorneys opting out of service all together but creditor would still be served
    - iv. General discussion among the group regarding whether or not this rule would require parties to start mailing notice when electronic notice is terminated.
      - 1. Parties would normally serve via ECF but if this form is filed, then need to know if would have to start serving by mail.
      - 2. Service via the matrix; would need to have an exception for service on attorneys that have filed this kind of notice.
      - 3. Need client to still get notice but attorney does not get notice.

4. Steve Nichols: waiver of notice in the form so that no notice would be required either by ECF or waiver.
  5. Adam Goodman: perhaps instead amend rule on withdrawal to have procedure for creditor attorneys.
    - a. Judge McNamara: current rule is based on state ethics rules.
  6. Appears that perhaps there is no way to get out of case without formal withdrawal.
  - v. Approval of this rule at this meeting withdrawn: Bonnie Bond moves and Tara Salinas seconds to table current proposal rather than moving forward.
  - vi. Ted Hartl: The committee can revisit this issue in connection with new rule on electronic service at a national level.
- (c) L.B.R. 2016-3(b)(3): Issue related to service of long form fee application given different bar date for governmental units (comments from November 13 meeting).
- i. Government bar date versus non-government bar date
  - ii. Ross Hoogerhyde: Suggests serving all that have filed claims + government units.
  - iii. Ken Gardner: Suggests drafting revised language for rule and give to judges to review to amend rule
  - iv. Tara Salinas will draft suggested language and send to Bonnie Bond, then bring to committee next meeting.
  - v. Judge Rosania/Doug Kiel:
    1. Tangential issue: Check PRF box, can you file long form?
      - a. If the plan says PRF, then should only get PRF
      - b. Can't check PRF box and file long form
      - c. Doug Kiel notes that Judges Rosania and Romero recently issued rulings different from one another.

6. Other matters:

- (a) Ken Gardner: New rule on electronic service to go into effect 12/1/2019.
  - i. Does not anticipate any major issues with our rule, it's generally in compliance with what is being discussed at national level.
- (b) Doug Kiel: Instances where secured creditor does not file POC and debtor lawyer does not file POC for them, Ch. 13 trustees cannot pay claims funded if no POC filed. This is creating some problems in some cases.
  - i. Ch 13 Trustee is generally filing motions to limit distribution or determine treatment of claims funded when no POC is filed.
  - ii. Difficult to carve out an exception to the rule for secured claims.
  - iii. Doug Kiel notes similar issues for domestic support claims and student loan claims.

- iv. Judge Rosania suggests reviewing the topic at the next brown bag to ensure Debtor Counsel are aware of these issues.
- v. Tara Salinas notes that she can also send an email to debtor bar list serve.

- 7. Inactive Committee Matters: N/A
- 8. Scheduling Next Meeting of the Committee.
  - (a) May 14, 2019 at noon
- 9. Adjourn: 12:56