

MINUTES OF MEETING OF  
STANDING LOCAL BANKRUPTCY RULES REVISION COMMITTEE  
DISTRICT OF COLORADO, BANKRUPTCY COURT  
May 4, 2021

A regular meeting of the Standing Local Bankruptcy Rules Revision Committee was called to order at 12:02 on Tuesday, May 4, 2021, by Chair Ted Hartl.

Attendance: The following Members, Ex-Officio Members and Judicial Advisors attended by phone or a Zoom conference call:

**Members**

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

**Ex-Officio Members**

Jennifer Cruseturner, Vice Chair  
Kenneth Gardner  
Adam Goodman  
Margaret Muff  
Paul Moss  
Laura Guice  
Deanna Westfall  
Karen Perse  
Danielle Urban

**Judicial Advisors**

Judge Thomas McNamara  
Judge Joseph Rosania

**ITEMS**

1. Vote on approval of minutes from last meeting held on March 9, 2021.
  - a. Steve Milligan moves, Tara Salinas seconds. Minutes approved.
2. Report of Committee Chair.
  - a. Ted Hartl:
    - i. Nothing to add
3. Report of Judicial Advisors.

- a. Judge McNamara-
  - i. Presumptive fee increase has been discussed and agreed to and Chief Judge Romero issued order to \$4,500 effective May 1, 2021.
  - ii. Judge McNamara also advised other judges on topics discussed last time at Local Rules Meeting.
- b. Judge Rosania-
  - i. Nothing to add.
- c. Ken Gardner – Clerk of the Court
  - i. Nothing to Add.

4. Pending and New Committee Matters:

- a. Proposed revisions to L.B.R. 9011-4 for electronic signatures for petitions, statements, and schedules.
  - i. Tara Salinas-
    - 1. Pulled information from other districts and primarily based her draft on Kansas' rule.
    - 2. Suggested to allow different ways to constitute electronic signature and discussed working draft to committee.
  - ii. Paul Moss-
    - 1. United States Trustee is still opposed and the US Attorney is still opposed to electronic signatures.
  - iii. Judge McNamara-
    - 1. Inquired for reasoning on why the United States Trustee is opposed.
  - iv. Paul Moss-
    - 1. Main reason is it is easier to show jury and judge if there is a wet signature.
  - v. Laura Guice-

1. National Rules will likely be changed to in the interim a GPO may be better approach rather than Local Rule change.

vi. Ken Gardner-

1. National Committee does not see there is any prohibition to allowing electronic signatures and other industries allow for electronic signatures.

vii. Tara Salinas-

1. Allowing some type of electronic signatures is helpful for practicing attorneys and for Debtors.

viii. Ted Hartl-

1. Consider the rule as drafted and noted that the United States Trustee is in opposition.

ix. Judge McNamara-

1. Will take the proposal to the Judges for consideration.

- b. Proposed revisions to L.B.R. 9010-1(b)(2)(B) concerning local counsel requirements for out of state lawyers (even if admitted in the United States District Court).

i. Ted Hartl-

1. This issue has been spearheaded by the Bankruptcy subsection of the Colorado Bar Association.
2. Wyoming wants local counsel and is very strict.
3. Does not know how much of an actual issue it is and maybe judges should police this issue internally.

ii. Judge McNamara-

1. Back in 2016 and 2017 the issue came up with a draft that was very similar to what is being proposed now. The District Court did not approve the proposed rule at that time.
2. Is this rule even necessary as he is not aware of any big problems with this over the past few years?

3. If the only purpose is to protect Colorado counsel then we will have pushback by the District Court.

iii. Ted Hartle-

1. Purpose may be in part to protect and public and confidence in the lawyer.

iv. Judge Rosania-

1. Has had some issues with out of state lawyers recently and especially in Motion for Relief hearings.
2. Maybe there would be a different reception with the new judges if we take it back up.
3. Having a competent Chapter 11 bar is very important in this district.
4. Is willing to take it to District Court again and see what they do.

v. Michael Suchoparek-

1. States that he is seeing an increase on Motion for Reliefs being filed by out of state counsel and is disrupting the local practice and customs causing inefficient workouts of these motions. This is time consuming and costly to the local Debtors.

vi. Ted Hartle-

1. Moves to forward and Steve Milligan seconds. No opposition and the matter will be submitted.

5. Miscellaneous and Potential Committee Matters:

- a. Mediation, L.B.R. 9019-2. Last discussion in September/October 2018 w/out consensus for revisions:

i. Judge Rosania-

1. Delaware has extensive rules on this subject.
2. Used under Section 363 in prior cases and is flexible but he understands that mediators want certainty.

ii. Judge McNamara-

1. Split of Authority across the country.
2. May be difficult to get all judges to come to agreement on various fact patterns and to bind to one procedure.

iii. Ted Hartl-

1. Maybe best to table this matter for a future meeting.

b. Subchapter V. Need for local vs. national plan.

i. Paul Moss-

1. There is a national form that works ok in simple cases.

ii. Joli Lofstedt-

1. All plans are very individual and a lot of firms use firm template plans.
2. Time may not be well spent on formulating a local form plan.

iii. Ken Gardner-

1. Nothing is pending on the national rules committee other than discharge of the Trustee and operating reports.

iv. Ted Hartl-

1. Table this matter for now.

c. Contempt/Orders to Show Cause. Need for procedural rule.

i. Ted Hartl-

1. This issue is usually tied to rule 37

ii. Jennifer Cruseturner-

1. Asked Judge Rosania what is his suggestions.

iii. Judge Rosania-

1. Proposed to make a one sentence addition to Rule 9013 to clarify and make the motion practice more efficient.

2. Injunctions may need to be filed as an Adversary Proceeding pursuant to a recent circuit case. *United States Securities and Exchange Commission v Hyatt*, 621 F.3d 687.

6. Scheduling Next Meeting.

a. Tuesday August 10, 2021

7. Adjourn. 1:02PM