

MINUTES OF MEETING OF
STANDING LOCAL BANKRUPTCY RULES REVISION COMMITTEE
DISTRICT OF COLORADO, BANKRUPTCY COURT
August 10, 2021

A regular meeting of the Standing Local Bankruptcy Rules Revision Committee was called to order at 12:02 on Tuesday, August 10, 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
Steven Mulligan
Tara Salinas
Michael Suchoparek, Secretary
Thomas Vincent

Ex-Officio Members

Kenneth Gardner
Adam Goodman
Margaret Muff
Paul Moss
Deanna Westfall
Karen Perse
Danielle Urban
Doug Keil

Judicial Advisors

Judge Thomas McNamara
Judge Joseph Rosania

ITEMS

1. Vote on approval of minutes from last meeting held on May 4, 2021.
 - (i) Judge McNamara stated Ted Hartl's name was misspelled.
 - (ii) Steve Mulligan Motion to Approve. Tara Salinas Seconds. No opposition. Approved.

2. Report of Committee Chair.
 - (i) Ted Hartl:
 - 1) Everything from past meeting was approved by judges except for the Wet Signature modification proposal.

2) Nothing else to report

3. Report of Judicial Advisors.

(i) Judge McNamara

- 1) Judge Romero no longer Chief Judge. Judge Tyson the new Chief Judge in this district.
- 2) Change in rules for entry into Court. Masks are now required for all in-person hearings.
- 3) Presumptive return date for staff is September 1, 2021. However, the conditions may change and thus this date may change.
- 4) National Rules committee proposed procedure revisions have been submitted for public comment. Of interest is Rule 3002.1 where mid case notice in Chapter 13 cases will be required.

(ii) Judge Rosania

- 1) Timing delay as it is 3 years for civil jury trial in District Court.
- 2) His chambers has a slight delay in issuing opinions due to staffing.
- 3) Venue law has got some traction in Congress.

(iii) Kenneth Gardner

- 1) Rules out for public will not be implemented for 1 year -- December 2022.

4. Pending and New Committee Matters:

(i) Proposed Local Rules Revisions, public comments due September 3, 2021:

- 1) Revisions include prior changes to rules and forms recommended by Committee and approved by the Bankruptcy Judges (*i.e.*, L.B.R 2016-3(b) and (c) re: notices of long form chapter 13 fee applications; L.B.R. 9010-1(b)(2)(B) re: proposed addition of a presumptive local counsel requirement; and L.B.F. 3003-1.1, -1.2, and -1.3 re: electronic proofs of claim).

- 2) Revisions do not include Committee’s proposed modification of “wet signature” requirements under L.B.R. 5005-4, as a majority of the Bankruptcy Judges did not agree to the proposed change.
- 3) Judge McNamara
 - a) Local counsel rule is sent to District Court.
 - b) Wet signature rule- majority of judges did not believe there should be a departure for wet signatures.
 - c) Would like to have public comments submitted to the committee.
- (ii) Contempt/Orders to Show Cause.
 - 1) Ted Hartl: Jennifer Cruseturner drafted for procedures and provided two alternatives
- (iii) Judge Rosania
 - 1) Has not reviewed drafts but thinks there should be a streamlined procedure.
 - 2) Separate rule may be a better option.
- (iv) Steven Mulligan
 - 1) Prefers separate rule.
- (v) Ted Hartl
 - 1) Moves to propose option 1 – stand alone rule for consideration
- (vi) Steven Mulligan
 - 1) Moves. Bonnie Bell Bond seconds. Matter submitted.

5. Miscellaneous and Potential Committee Matters:

- (i) *Kinney v. HSBC Bank, N.A. (In re Kinney)*, Case No. 13-27912 EEB, 2021 WL 3123644 (10th Cir. July 23, 2021).
 - 1) Adam Goodman

- a) Local rules may not be the way to address the impact.
- b) He has new report for cases that are nearing completion to be utilized.
- c) It is interesting that the Court provided no definition of “material default” in the opinion.
- d) There likely will be a uniform document by Trustees about when payments are received and the method of payments.

2) Doug Kiel

- a) Agrees with Adam Goodman
- b) There will likely be more hardship discharges and CARES Modification Extensions.

3) Michael Suchoparek

- a) Internal Office disclosures are now very important to be provided to clients in order to protect the Debtors’ counsel in the event a Debtor falls victim to this decision.

6. Return to office/Court; remote/video appearances post-Covid.

(i) Ted Hartl

- 1) May need local rules for telephonic zoom hearing if they continue in the future.

(ii) Kenneth Gardner

- 1) September 1, 2021 is scheduled staff return but that may change.

7. Next Meeting

- (i) October 19, 2021 at noon via zoom.
- (ii) Adjourn. 12:49PM