

FLSB BANKRUPTCY LAWYERS ADVISORY COMMITTEE

Meeting September 20, 2018

Call to Order: 5:07 pm

Present were: Robin Weiner, Annika Miranda, Ashley Bruce, David Samole, Jeffrey Fraser, Michael Johnson, Nadine White-Boyd, Rilyn Carnahan, and James Schwitalla

Not present: Leyza Blanco, Eric Silver, Gerard Kouri, Heidi Feinman, Robert Furr, Ross Hartog

A quorum was not in attendance. Committee members in attendance agreed to proceed with the meeting for subcommittees to submit their reports. The committee will not vote on any matters.

OLD BUSINESS:

Sub-Committee Reports:

a. Review of change of law firm procedures/comparison to Middle District procedures:

Jeff Fraser reported that there is a recommendation to scrap the idea of mimicking the Middle District procedures on changing the notice requirement when an attorney moves to a new firm and is no longer handling the case. Jeff and Clerk of Court Joe Falzone will be reviewing the Notice of Appearance issues.

b. Chapter 13 Fee Practice:

Robin Weiner discussed with Judges Mark and Isicoff the current chapter 13 fee guidelines and the unused chapter 13 fees.

1. Fee Guidelines (not just no look fees but all Guidelines):

The chapter 13 “no look” fee amount has been \$3500.00 since about 2007 or 2008. Passage of time and services performed by debtor’s counsel warrant increase of the “no look fee” amount. The Middle district allows debtor’s attorney a “monitoring fee” post confirmation. Robin does not recommend that the Southern District mimic the Middle District’s “monitoring fee”. Discussion regarding the amount of work required post plan confirmation is minimal, if any. Therefore, the “monitoring fee” provides a fee to attorney’s for minimal or no services being performed. If debtor’s attorney, must take any action post plan confirmation, Southern District’s “a la carte” fee structure is in place. The debtor’s attorney can also request additional fees by filing a fee application. The Court to determine whether additional fees incurred by debtor’s counsel above the “a la carte” fee amount is warranted. Recommendation to submit for vote to increase the chapter 13 “no look fee” to \$4500 with the a la carte fee schedule to remain the same. Robin anticipates being away for the next committee meeting and gave her proxy to Nadine. Nadine accepted same.

2. Unused Chapter 13 Fees:

An attorney in the Miami division requested that any leftover trustee fees be paid to the debtor’s attorneys and not to be distributed pro rata to the unsecured creditors. Currently, the WPB/Broward Chapter 13 trustee takes in the plan approximately 10% and the Miami Chapter 13 trustee takes 11.1. The Chapter 13 trustees only use a portion, 4%, of those fees for its office. The excess

received by the trustees is paid to the unsecured creditors. Discussion that these funds are the chapter 13 trustees' fees and there is no requirement that it distributed to debtor's attorney. The Chapter 13 trustees pay the unsecured creditors in accordance with the confirmed plan. Any payment to be received by the debtor's attorney must be provided for in the plan. Therefore, the plan would have to be modified monthly to pay the debtor's attorney.

Jim Schwittala raised concerns that there isn't uniformity as to how much fees is taken by the chapter 13 trustee. Suggestion made to submit a recommendation for uniformity as to the trustee's fees, that is 10% as is currently in the West Palm and Broward Divisions or 11.11% as is currently in the Miami/Dade division.

Recommendation made to submit for a vote that the fees be paid to the unsecured creditors.. Robin anticipates being away for the next committee meeting and gave her proxy to Nadine. Nadine accepted same.

c. Revised Chapter 11 Fee Guidelines:

Sub-committee members include: Robert, David, Heidi, Nadine, Leyza. Subcommittee discussed what is being requested by the Bench in the email that was sent as there is already a committee working on the Chapter 11 fee guidelines. The subcommittee discussed improving the fee application narrative sections requiring more meaningful information as to the services performed. The fee application does not provide for parking or public transportation. Recommendation that parking and use of public transportation such as Brightline be reimburseable expenses. No action to be taken at this time until further information from the court.

d. Pretrial Order issued in Adversary Proceedings:

Subcommittee members: Annika, Ross and Rilyn. Since Pretrial Conference occurs early, recommendation made that a status conference be held prior to pretrial conference to determine the deadlines. Allows for all parties involved to have input as to the deadlines and therefore extensions may not be necessary. The Judges grant request for extension on deadlines. However, the dispositive motions deadlines remain the same. Discussion held regarding the issues that arise as a result of the dispositive motions deadlines occurring prior to discovery deadlines.

The subcommittee will reconvene as to E-Discovery and provide report on this issue.

FUTURE MEETING DATES: November 15, 2018 at 5:00 pm

Meeting adjourned 5:40pm