Minutes of the Bankruptcy Bench Bar Committee
Topeka Courtroom 210
May 12, 2016

Members Present:	Hon. Janice M. Karlin, Judges Representative Jordan Sickman, U.S. Trustee's Office David Arst Wendee Elliott-Clement Laurie B. Williams Jill A. Michaux Steven Rebein Justin W. Whitney Andrew J. Nazar David Lund
Others Present:	Bill Griffin, Chapter 13 Trustee
Court Staff Present:	David Zimmerman, Clerk of Court (temporary Chair) Stephanie Mickelsen, Chief Deputy Clerk
Members Absent:	Emily B. Metzger, Chair (excused)

Judge Karlin called the meeting to order at 10:01 am. She noted that Emily Metzger was excused and that she had asked Clerk of Court David Zimmerman to serve temporarily as the Chair. It was noted that the Committee had approved the minutes of the previous meeting via e-mail and the minutes are posted on the Court's public website.

Old Business

A. *LBR 1007.1(a)(2) (documents that must not be filed as attachments to the petition)*

Last meeting, the Committee decided that this rule should be reviewed in the future to determine whether there are any items listed that should be deleted because they were outdated or no longer used.

The Committee formed a subcommittee to review this subsection of the LBR and provide a recommendation. Jill Michaux (Chair) and David Zimmerman will serve as members.

B. LBR 2016.1 (dealing with compensation of professionals)

Last meeting the Committee decided to consider during a future meeting whether to expand the Rule's scope to Chapter 7 and Chapter 13.

The primary question is whether notice must be provided to the entire matrix or to a lesser list.

The Committee formed a subcommittee to review the proposed change. Jill Michaux, Andrew Nazar and Bill Griffin will serve as members.

C. Interpreters

Last meeting the Committee recommended that the Bankruptcy Court should request the use of Bench Bar funds to provide interpreters when it would benefit the trier of fact. David Zimmerman reported that he is preparing proposed language to submit to the District Court Bench Bar fund so it may be considered in the next budget. Funds would generally be used to pay for the reasonably priced telephone interpreter services. Appropriated funds cannot be used for interpreters in most circumstances.

Laurie Williams suggested it could be helpful to include a line in the pretrial orders where a party could note if an interpreter would be needed.

The Committee recommended that the Bench Bar Fund authorize the expenditure of up to $4,000 per year for interpreter services (i.e., $1,000 per Bankruptcy Judge) to be overseen by the Bankruptcy Judges.

[Editor's Note: In following up with the District Court on this action item, we learned that the Bench Bar Fund now has a line item budgeting up to $10,000 to fund interpreters in "civil matters not instituted by the United States," including bankruptcy cases.]

It was noted that some of the District Bench Bar funds will be used to provide a three-day district CLE program in 2017 (probably February). The date will be set once they decide on a location. There are already a number of impressive, nationally recognized presenters and performers who have committed to present on a wide range of topics.

New Business

A. Local Chapter 13 Form Plan: Should a Committee be formed to review the Chapter 13 Form Plan in Kansas?

There is increasing probability that national rules could require use of a national Chapter 13 Form Plan unless a local jurisdiction adopts a conforming plan that has been appropriately vetted (by notice and a public comment period). Judge Karlin wants to assure that Kansas has a conforming local plan ready to publish for public comment by August 1, 2017, well in advance of the anticipated deadline of December 2017. She noted that the national form plan has some elements that, if adopted locally, could improve our local plan. She suggested that all Chapter 13 Trustees, at least two debtors' lawyers, at least two creditors' lawyers, and a representative of the Clerk's Office serve on a new committee to review the local plan. She indicated that if the new committee desired to have a Judge participate, that could be arranged. David Zimmerman suggested that there are staff in the Clerk's Office who could format a new form plan visually once the substance is finalized. Jill Michaux advised that proposed Rules 3015 and 3015.1 have been approved by the Rules Advisory Committee and will be published in August 2016 with a proposed 3-month, shortened notice period. The plan and implementing rules were previously adopted by the Rules Advisory Committee and are being held to be submitted to the Standing Committee in a package with Rules 3015 and 3015.1. The package could eventually go into effect as early as December 1, 2017. It appears that our current plan essentially conforms to the national requirements, but that our local plan could use a "hard look" to see where it could be improved, e.g., to cover issues on which the current version of the local plan are silent, to clarify provisions, and/or to include small changes we have made via standing order over the last few years. David Zimmerman explained that arrangements could be made for members of the new committee to participate from multiple locations via telephone conference calls and share screens using remote screen software to make it easy for them to participate in meetings without the need to travel long distances. Jill Michaux expressed her desire to serve on the new committee. David Zimmerman will announce the new committee on the bklistserve and the Court's website. Attorneys who wish to participate should send an email to David Zimmerman, Clerk of the Court.

The Committee decided to form a new committee to review emerging national requirements and recommend changes to assure that our local Chapter 13 Plan conforms. Membership will include the three Chapter 13 Trustees, David Zimmerman as representative of the Clerk's Office, Jordan Sickman as representative of the U.S. Trustee's Office, Jill Michaux as a member of the Bankruptcy Bench Bar Committee, and a set of attorneys who are interested in participating. The new committee will be formed effective July 1, 2016.

B. Committee Membership Changes

The appointments of the following Committee members expire effective June 30, 2016:

Justin Whitney
Andrew Nazar
David Arst
Wendee Elliott-Clement
Laurie Williams (Chapter 13 Trustee)
Steve Rebein (Chapter 7 Trustee).

The Committee expressed deep appreciation for the valuable and meaningful service these members have rendered to the Bankruptcy Court and community.

C. LBR 4001(a).2: Is LBR 4001(a).2 moot and should it be abrogated?

David Zimmerman reported that as of February 10, 2016, there are no longer any open Chapter 12 or Chapter 13 cases filed before 10/17/05.

The Committee unanimously decided to recommend that LBR 4001(a).2 be abrogated as moot effective March 17, 2017.

D. Electronic Proof of Claim (ePOC): Should the District adopt use of ePOC?

David Zimmerman described how ePOC allows users to generate and submit an electronic proof of claim along with supporting documentation to CM/ECF without the need for an attorney filing account or a limited user account. This feature will save Clerk's Office time spent processing paper claims. Andrew Nazar described the positive experience his firm has had with this system around the country and said he is very much in favor of adopting it locally. He also explained that ePOC works much like claims services in mega cases. David Zimmerman described the results of his survey of other courts across the country: no other court responded that it had problems with filers dumping fake claims into CM/ECF. He explained how the Captcha feature prevents automated filing of "junk" documents. Filers affix their electronic signature to the claims when filing.

The Committee unanimously decided to recommend that the Court adopt ePOC.

E. Attorney Registration for CM/ECF Account: Should CM/ECF homework and training exercises be made optional for an attorney to obtain a CM/ECF login and password?

David Zimmerman explained that the Clerk's Office is considering ways to streamline the process for attorneys to obtain a CM/ECF login and password. Now that on-line systems are much more commonplace, and an increasing number of bankruptcy practitioners are more familiar and comfortable with electronically filing documents, he proposed to make the homework assignments and filing exercises optional. The Clerk's Office would continue offering training resources that include the on-line Training CM/ECF system so attorneys can practice filing documents. The Clerk's Office will also continue to offer practice exercises and in-person or on-line training when requested. Jill Michaux recommended that it be emphasized to attorneys that the CM/ECF login and password is the equivalent of a signature under Rule 11. David Zimmerman explained that the current application for attorneys to receive CM/ECF filing access explicitly indicates that their login and password serve as their electronic signature for purposes of Rule 9011. This application requires a wet ink signature.

Jill Michaux also commented that attorneys should be reminded that they must retain the wet ink signed original of documents signed by their clients until six years following the conclusion of the case. [Editor's Note: D. Kan. Rule 5.4.7 states: "Filing Users must maintain in paper form all electronically-filed documents that require original signatures of non-Filing Users until 6 years after all time periods for appeals expire. If the court requests, the Filing User must provide original documents for review."] Judge Karlin noted that the Clerk's Office provides one-on-one training on CM/ECF when needed. David Zimmerman said the Clerk's Office has the ability to share screens with remote attorney's offices to make training even easier and more accessible for new users, including new staff for attorneys.

Judge Karlin invited David Zimmerman to provide an update about NextGen, the new version of CM/ECF that is eventually coming to Bankruptcy Court. David Zimmerman explained that the Bankruptcy Court will eventually move to NextGen and users will access CM/ECF through PACER at that time. Bankruptcy Court filers currently login to CM/ECF directly rather than through PACER. NextGen will change the mechanism for attorneys to access CM/ECF, but the attorney interface will not change significantly in other regards. Attorneys who have electronically filed in District Court in recent months would already have taken the steps to get a PACER account through which they access District Court's NextGen system. NextGen likely will not be deployed in the Bankruptcy Court until Spring 2017 at the earliest. The Clerk's Office will provide plenty of notice and instructions before making the transition to NextGen.

The Committee unanimously agreed to recommend that formerly mandatory homework and electronic filing exercises should be made optional for attorneys seeking a login and password to file documents in the Bankruptcy Court's CM/ECF system.

F. LBR 5005.1 Appendix 1-01, § VI: Should the Committee recommend a change to LBR 5005.1 Appendix 1-01, § VI (the rules governing submission of sealed documents) so parties can submit documents they want to file under seal by uploading them electronically rather than in paper?

David Zimmerman explained that LBR 5005.1 Appendix 1-01 § VII requires filers to submit sealed documents to the Bankruptcy Court in paper format. By contrast D. Kan. Rule 5.4.6 requires sealed documents to be file electronically by default. He noted benefits and drawbacks to converting to an electronic system. Storing sealed documents electronically would allow parties and judges (who are granted electronic access to the sealed documents) to more easily view the sealed documents remotely through CM/ECF. On the other hand, electronically storing documents does create a somewhat higher risk of inadvertent disclosure. Paper documents are more easily lost. Electronic documents are easily backed up electronically.

A possible procedure that could be adopted was introduced:

1. Party electronically files a public motion to seal documents in CM/ECF.

   a. Party uploads the proposed documents to be sealed by using a separate dictionary event that links back to the pertinent motion to seal and automatically seals the attachments temporarily (pending a ruling by the court) and allows court eyes only access.

   b. Under special circumstances (e.g., pro se filers) the party submits hard copy candidate documents to the court. The court scans the candidate documents into CM/ECF under temporary seal (pending a ruling by the court) and allows court eyes only access. The original documents may be retrieved by the filing party 30 days after they were filed. If the filing party does not retrieve the originals during the next 30 days (i.e., between 30 and 60 days after they were filed), the Clerk may destroy the hard copy originals.

   c. If a non-document object is filed under seal (e.g., a hard drive), the party submits the candidate item and the Clerk's Office retains it until the court orders its release or destruction.

d. Party uploads a proposed order electronically via CM/ECF.

2. The court rules on the motion.

a. If the motion is granted, the document remains in CM/ECF under seal until further order of the court. Sealed documents are retained or disposed as directed by the governing Records Disposition Schedule dictated by the Guide to Judiciary Policy and the National Archives and Records Administration (NARA).

b. If the motion is denied, the candidate document may be unsealed or stricken, according to the instructions in the court's order. If the document is stricken, generally it will not be deleted from CM/ECF.

Jordan Sickman asked what should be done if a document is inadvertently filed that should not have been submitted. David Zimmerman answered that the filer should contact the Clerk's Office immediately or file a motion to redact because it immediately emails the supervisors in the local office alerting them to temporarily seal the document that needs to be redacted.

It was asked whether the proposed dictionary event for filing a motion to seal could prohibit a party from attaching any documents to the motion to seal—to prevent a filer from accidentally disclosing protected information publicly—and whether the filer could use a separate dictionary event that would automatically seal the attachments that are uploaded and relate them back to the motion to seal. David Zimmerman answered that CM/ECF has the ability to do that. Judge Karlin noted that if a filer made the sensitive documents part of the motion to seal itself (e.g., by including the sensitive documents within the same pdf file as the motion to seal) then CM/ECF would not be able to prevent their disclosure.

Jordan Sickman asked whether guidance could be issued to explain what documents ought to be sealed. David Zimmerman referred to Rule 9037 but said that the Clerk's Office cannot provide legal advice. Judge Karlin explained that the Judges would not want to issue advisory opinions.

Jill Michaux suggested that if a rule change is adopted, this should be a CLE topic for the Clerk to cover.

Andrew Nazar suggested that, although it is a good idea to handle sealed documents electronically rather than in paper, it would be most helpful to have the language of a proposed rule before voting on a formal recommendation.

The Committee agreed that David Zimmerman will prepare an initial draft rule for the Committee to review.

G. Declaration Re: Electronic Filing: Should the Committee recommend that Part II of the Declaration of Attorney be amended to remove the declaration under penalty of perjury regarding the petition and schedules?

David Zimmerman explained that on March 7, 2016, the Court issued an updated version of the local Declaration Re: Electronic Filing (hereinafter "Declaration"), a form that is required by LBR 1007.1(a)(3). Part II of the Declaration states:

> I declare under penalty of perjury that I have reviewed the above debtor(s') petition, schedules, statements and that the information is complete and correct to the best of my knowledge. The debtor(s) signed this Declaration before I submitted the petition, schedules and statements. I will give the debtor(s) a copy of all pleadings and information to be filed with, or received from, the United States Bankruptcy Court, and have complied with all other requirements in the most recent Standing Order, Administrative Procedures for Electronic Case Filing Manual and this Court's Local Rules. I have informed the individual petitioner that [he and/or she] may proceed under chapter 7, 11, 12 or 13 of Title 11, United States Code, and have explained the relief available under each such chapter. This declaration is based upon all information of which I have knowledge.

That language appeared in many earlier versions of the Declaration, including those dated June 16, 2004, October 22, 2004, and March 15, 2005. However, on March 21, 2005, Part II was amended at Jill Michaux's request to state:

> The debtor(s) signed this Declaration before I submitted the petition, schedules and statements. If applicable, I have informed the individual petitioner that [he and/or she] may proceed under chapter 7, 11, 12 or 13 of Title 11, United States Code, and have explained the relief available under each such chapter.

By June 5, 2009, Part II was amended again to contain the same language that appears in the current March 7, 2016 iteration of the Declaration. The June 5, 2009 version of the Declaration was used as the starting point for the March 7, 2016 version, and only minor formatting changes were made.

Shortly after the Court issued the March 7, 2016 version, Jill Michaux requested that the "penalty of perjury" language be removed from the Declaration—as it had been removed in 2005. Citing 11 U.S.C. § 707(b)(4)(B) and (D), and the NCLC Consumer Bankruptcy Law and Practice sections on those subsections, she urged that attorneys are not required to verify the petition and schedules under penalty of perjury. NCLC comments on § 707(b)(4)(C) states, for example, that

courts are likely to look to Rule 9011 and "require a good faith determination, after reasonable inquiry under the circumstances. The provision does not require an attorney to certify that the petition is not an abuse, but only that the attorney determined that it was not an abuse." The NCLC comments on § 707(b)(4)(D) state that the signature for a debtor attorney "certifies that the attorney has no knowledge, after an inquiry, that the schedules are incorrect. This standard is a pretty low one . . . [and] requires an inquiry, which should be no greater than for other pleadings, perhaps less, because it does not use the word 'reasonable.'"

After outlining that history, David Zimmerman invited the Committee to consider whether it might be appropriate to not only delete the penalty of perjury language, but entirely delete the attorney declaration. Page 7 of the new bankruptcy petition (Form 101) now contains many of the same representations about having informed the debtor about the various chapters. Rule 1008 states that all "petitions, lists, schedules, statements and amendments thereto shall be verified or contain an unsworn declaration provided in 28 U.S.C. § 1746." But within the context of Rule 1008, statements are factual representations that have to be presented under oath as verified or sworn statements. Because attorneys are not fact witnesses for purposes of the case—and they operate under Rule 9011—the need for attorneys to submit their documents under penalty of perjury appears to be unnecessary. In fact, Rule 9011 requires a "statement" to be signed by an attorney, but makes no reference to verification or under penalty of perjury. Thus, it appears that "statements" in the context of Rule 1008 do not apply to papers filed by attorneys, unless the attorneys are acting in the role as a fact witness. *Compare* Form 101 Part 7 (requiring an attorney to "declare" and "certify" without reference to Section 1746 and without the need for verification by a notary) *with* 11 U.S.C. §§ 110(b)(2)(B)(iii) and 110(h)(2) (in which a bankruptcy petition preparer is required to sign under penalty of perjury -- ostensibly because Rule 9011 sanctions would not apply to non-attorneys). Furthermore, LBR 1007.1(a)(3) requires the local Declaration Re: Electronic Filing to be filed in lieu of Official Form 121, but Form 121 only requires the debtor to provide the Social Security Number under penalty of perjury, without requiring the attorney to sign that form, much less under penalty of perjury.

Jill Michaux noted that the Declaration Re: Electronic Filing is needed so that the Court has the debtor's wet ink signature, but there is no similar requirement for the wet ink signature of the attorney because the Court has authority over the attorney because of Rule 9011. Steve Rebein asked whether it would still be best to have the attorney signature on the form as the one who submitted it because this is a document that is submitted in paper. Judge Karlin suggested that the attorney declaration was unnecessary.

The Committee unanimously recommended that the entire paragraph in Part II be deleted, that the headings for Part I and Part II be

removed, and that the attorney signature block be preceded simply by the statement "Submitted by (if represented by an attorney):".

Jill Michaux asked whether a bankruptcy petition preparer (BPP) should sign the Declaration Re: Electronic Filing. It was noted that BPPs need to sign their own form under penalty of perjury.

H. LBR 9027.1 Removal/Remand: Is there a need to amend LBR 9027.1(b) to address cases in which an answer was already filed before the case was removed to Bankruptcy Court?

David Zimmerman set the context for this question by noting that in a typical removal setting, there is a narrow window after a state court case is filed for a party to remove the case to federal court, followed by another narrow window for another party to move for the case to be remanded to state court. In the bankruptcy context, however, a case might be properly removed long after the state court case was filed. For example, a foreclosure action might have been filed and a year later the defendant could file bankruptcy that triggers the opportunity for the case to be removed to federal bankruptcy court, even though the case could not have been removed to federal court initially. Rule 9027(g) allows an answer to be filed within the longest of three periods: (1) "21 days following the receipt through service or otherwise of a copy of the initial pleading setting forth the claim for relief on which the action or proceeding is based," (2) "21 days following the service of summons on such initial pleading" or (3) a formula to compute a 7-day period.

LBR 9027.1(b) sets the deadline to file a motion to remand based only on computing a 21-day answer deadline under Rule 9027(g). There is no explicit incorporation of the seven-day formula. In a case where removal could only take place months after the answer date had expired (*see* Fed. R. Bankr. P. 9027(a)(2)), under LBR 9027.1(b) a motion to remand would always be untimely—the 21 day period would have long expired under either 21-day formula in Rule 9027(g). Thus, the only way a party could file a timely motion to remand under LBR 9027.1(b) would be to infer that the seven-day formula applied. David Zimmerman suggested that, to remove any ambiguity, the Committee should recommend a simpler rule: "A motion to remand under Fed. R. Bankr. P. 9027(d) must be served within 21 days [or some other fixed number of days that is greater than 7 days and fewer than 22 days] following the filing of the notice of removal."

Andrew Nazar asked whether there is a deadline by which a party must file a motion to abstain, stating that a motion to remand is often accompanied by a motion to abstain.

Judge Karlin suggested that 21 days generally makes the most sense rather than a shorter time. Jill Michaux commented that if a party wanted a shorter period they could file a request to shorten time. Andrew Nazar suggested that this is an issue that may interrelate to other issues and rules, so he requested time to allow the Committee to look at the rules—especially those governing motions to abstain—and consider its implications before taking action.

The Committee is considering a change to LBR 9027.1(b) that would say "A motion to remand under Fed. R. Bankr. P. 9027(d) must be served within 21 days following the filing of the notice of removal." However, before voting on this language, Andrew Nazar will consult with colleagues and study the issue and update the Committee on his findings. The Committee will consider how the concept of abstention applies to the rule. The Committee will then vote on the proposed rule change at its next meeting.

I. Debtor Electronic Bankruptcy Notification (DeBN)

David Zimmerman informed the Committee that the DeBN Request Form is being updated slightly in two ways. First, a sentence has been added stating "If I already have a different electronic noticing account, you may deactivate that account and create this DeBN account." A small number of debtors are submitting requests for DeBN when they already have EBN (Electronic Bankruptcy Noticing) accounts. Under the Bankruptcy Noticing Center's (BNC) system, only one electronic noticing account can exist for a person with the same name and address. Thus, creating a new DeBN account will terminate an existing EBN account if one existed for that account holder. The new DeBN Request Form adds a sentence that alerts people who have an EBN account that if they sign up for DeBN then their EBN account will be deactivated. Second, the phrase "Under penalty of perjury," above the signature line will be bolded. The reason to convert an account from EBN to DeBN in this circumstance is because if an emailed notice bounces back as undeliverable, DeBN account holders will automatically revert to receiving paper notices.

David Zimmerman further explained that because Kansas requires all voluntary debtors to file a form opting in or opting out of DeBN, the participation rate here has skyrocketed compared to other jurisdictions, but there are still many debtors who opt not to participate. He then asked what can be done to resolve attorneys' concerns about recommending DeBN. It was noted that some debtors do not have printers, so they cannot print the electronic notices. David Lund said he neither encourages nor discourages participation but leaves the choice entirely up to the client. Steve Rebein discourages participation because clients are more likely to delete an email and then request a hard copy replacement from the attorney. Jill

Michaux explained that she has great success sending clients all documents electronically, but some clients only have email service on their cell phone, making electronic documents hard to read, some clients have difficulty maintaining uninterrupted cellphone service, and many clients do not have a printer.

Jill Michaux noted that the new 341 Notice [Official Form 309 Series] no longer has the 341 Meeting information on the first page of the three-page document. David Zimmerman noted that the 341 Notice has now been reduced to a maximum of two pages for all versions. Jill Michaux asked whether the 341 Meeting information could be moved to the first page, even though it is an Official Form. David Zimmerman explained that it is possible to modify the 341 Notice.

The Committee unanimously recommended that the 309 Series Official Forms be modified to place the 341 Meeting date, time and location on the first page of each 341 Notice.

J. Update on Rules Committee, Bankruptcy Rules, and National Chapter 13 Form Plan

Jill Michaux informed the Committee that proposed Rules 3015 and 3015.1 governing the Local Chapter 13 Plan are scheduled to be published in August with a shortened 3 month comment period (rather than the usual 6 months). The Rules Committee is meeting in November to vote on them. If approved they will go to the Standing Committee, the Judicial Conference, and the Supreme Court for review, then they will be promulgated and ultimately submitted to Congress. If Congress does not act then they will become effective automatically.

Jill Michaux added that the next big national rules project is to review the many bankruptcy noticing requirements. If anyone wishes to make a suggestion on this or any other rule or form, they can submit it by going to the website of the Administrative Office of the U.S. Courts. Every suggestion is considered. [Editor's Note: The website with information about "How to Suggest a Change to the Rules of Practice and Procedure and Forms" is located at http://www.uscourts.gov/rules-policies/about-rulemaking-process/how-suggest-change-rules-practice-and-procedure-and-forms. It provides contact information if a person wishes to suggest a change:

By Email: Rules_Support@ao.uscourts.gov

By Mail:

Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE
Washington, D.C. 20544]

There was a discussion of a proposed change to Rule 9036 that would require entities that receive a large number of notices by mail to sign up for electronic noticing. The benefits of electronic noticing were discussed, including faster delivery.

Jill Michaux informed that there is a noticing related change proposed for Rule 5005, but that is two to three years in the future.

K. Other Items Not on the Agenda

David Zimmerman related that a Wichita attorney contacted the Clerk's Office earlier that morning asking that an issue be raised at the Bench Bar Committee Meeting. The attorney stated that it is difficult to use the new forms to prepare an amendment to a schedule that was originally prepared on the old (pre-December 2015) forms. The attorney asked the Committee to discuss permitting amendments to be filed using the old forms. David Zimmerman explained that the Judges initially afforded attorneys some leeway as they became accustomed to the new forms, but the Judges eventually decided it was time to use the new forms, so the Clerk's Office was contacting attorneys if they filed old forms and asking them by telephone or email to refile the documents using the new forms. [Editor's Note: The Clerk's Office does not normally issue an order to correct when an old form is filed, and the Clerk's Office is no longer contacting filers who submit old forms.] When a party files an old form the Clerk's Office does not reject it, but the presiding judge may conclude that an old form is unacceptable, and other parties may object when a new form should have been used.

The meeting was concluded at 1:59 pm.

Minutes of the Bench Bar Committee
Topeka Courtroom 210
October 23, 2015

Members Present:	Emily B. Metzger, Chair Hon. Janice M. Karlin, Judges Representative Jordan Sickman, U.S. Trustee's Office David Arst Wendee Elliott-Clement Laurie B. Williams Jill A. Michaux Steven Rebein Justin W. Whitney Andrew J. Nazar David Lund
Court Staff Present:	David Zimmerman, Clerk of Court Stephanie Mickelsen, Chief Deputy Clerk Katherine Rosenblatt, Law Clerk to Judge Karlin
Members Absent:	None

Emily Metzger called the meeting to order at 10:07 am. She noted that the committee had approved the minutes of the previous meeting via e-mail.

Old Business

Modification of D. Kan. Bk. Standing Order 08-4(b)(5)

Last meeting there was consensus that Standing Order 08-4(b)(5) should be amended so that a Mortgage Creditor must send the letter alleging default not less than 14 days (previously 10 days) before taking any steps to modify the automatic stay. David Zimmerman recommended that the amendment to Standing Order 08-4(b)(5) be included in the proposed Standing Order 15-4.

The Committee agreed to recommend that the amendment to Standing Order 08-4(b)(5) be included in the draft Standing Order 15-4. The Committee also agreed to recommend that a footnote be included in revised Standing Order 08-4(b)(5) explaining that the change was made by Standing Order 15-4.

Review of Discharge Orders

Last meeting the Committee planned to review Chapter 7 and Chapter 13 discharge orders to determine whether language specific to pre-BAPCPA cases should be deleted.

The Committee agreed that this issue is moot because the new discharge forms that become effective December 1, 2015, do not contain references to pre-BAPCPA cases.

New Business

Proposed D. Kan. Bk. S.O. 15-4 Updating Local Bankruptcy Rules to Address Comprehensive Changes to Bankruptcy Forms Effective December 1, 2015

Because most bankruptcy form numbers will change effective December 1, 2015, David Zimmerman recommended a series of editions to the Local Bankruptcy Rules. The Committee reviewed each of the recommendations in detail.

Citation Conventions: David Zimmerman recommended that the local rules should cite the new Official Forms without using a leading "B" in front of the form number. For example, rather than referring to "Official Form B106C," the local rules would refer to "Official Form 106C" because that is the numbering format printed on the actual forms. Citations to the Director's Forms (also known as Procedural Forms) will contain the leading "B," primarily because a citation to "Form 1040" would lead some to assume that it referenced a tax return, whereas a citation to "Form B1040" would more clearly refer to a bankruptcy form.

LBR 1001.1(d): a punctuation error was corrected.

The Committee agreed that where mere typographical or grammatical editions are made, there is no need to show an amended date at the end of the rule. *See, e.g.*, LBR 1001.1(d) (removing a comma between "March" and "2005"); LBR 1009.1(a) (adding "to this Rule" to the end of subparagraph (a), and changing "Schedule E, F" to "Schedule E/F" in the rule and its appendix); and LBR 2002.1(d)(3) (changing "is" to "are").

LBR 1005.2: Form numbers were updated.

LBR 1007.1: This rule was discussed at length because some forms ceased to exist, other forms are new, and others were combined.

David Zimmerman recommended that Form 101B (statement about payment of an eviction judgment) be filed as a separate document.

At Judge Karlin's suggestion, David Zimmerman will have another person review all of the editions to form numbers in proposed Standing Order 15-4 to double-check that the updated numbers are correct before the draft Standing Order is submitted to the Judges for their final review and adoption. [Editor's note: this task was completed.]

Although some official form names do contain "you" and "your," Judge Karlin recommended that the local rules should not use "you" or "your" when referring to the forms.

The Committee agreed that LBR 1007.1 should be amended to require that the petition and attachments be submitted in order of the form numbers, and the matrix should be filed with the petition as the last attachment rather than as a separate document.

The Committee agreed that in addition to identifying the schedules by number in Rule 1007.1, a brief description of each schedule should be included, for example "Schedule A: property."

David Zimmerman will make the editions that were discussed and will circulate the revised draft for Committee review prior to the date we need to commence public comment [November 24, 2015].

The question was raised whether the Declaration Re: Electronic Filing could be filed electronically rather than conventionally. Historically, original signatures on this form were deemed necessary, particularly for the government to pursue allegations of bankruptcy fraud. Accordingly, the Committee did not recommend a change to the current requirement that the document be filed conventionally with an original "wet ink" signature.

The Committee agreed to remove references to Form 101A (initial statement about an eviction judgment) in Rule 1007.1 to reduce the likelihood that it would cause people to believe they must file Form 101A even when it was not applicable.

The Committed decided that the list of documents in 1007.1(a)(2) (documents that must not be filed as attachments to the petition) should be reviewed in the future to determine whether there are any that should be deleted because they were outdated or no longer used.

LBR 1009.1: Form names were updated in the Rule and its appendix.

LBR 2002.2: The question was raised whether it was necessary to include the noticing addresses of federal and state agencies in LBR 2002.2. It was decided that it was a helpful reference.

LBR 2014.1: Form numbers were updated.

LBR 2016.1: Form numbers were updated.

The Committee agreed to consider during a future meeting whether to expand the scope of LBR 2016.1 (dealing with compensation of professionals) to Chapter 7 and Chapter 13.

LBR 4001(a).1: Form numbers and names were updated.

LBR 7003.1: Form numbers were updated.

LBR 7054.1: Form numbers were updated.

LBR 9004.1: David Zimmerman recommended that documents should be paginated beginning with the first page, with sequential number of all pages to follow, including the cover page, tables, indices, and all other parts of the document. Currently, many briefs do not sequentially number all of the pages that precede the statement of facts, meaning that page numbers assigned by the authors to the statement of facts and argument sections often do not match the page numbers assigned by CM/ECF. The proposed rule change will cause page numbers affixed by the authors to correspond to page numbers assigned by CM/ECF after the document is electronically filed. Fixing this mismatching problem will, in turn, allow the CiteLink program to automatically create accurate hyperlinks from one document filed in CM/ECF to a precise page number in another CM/ECF document when it is cited properly.

The Committee considered whether or not LBR 9004.1 should also require each attachment in CM/ECF to be serially bates numbered so that internal document page numbers within attachments will also consistently match page numbers assigned by CM/ECF. However, the Committee recognized that it can sometimes be more complicated for an author to bates number each individual attachment to a brief or motion.

The Committee decided to recommend that LBR 9004.1(a) be amended to require every page of pleadings, motions, briefs and other documents filed as the main document in CM/ECF to be serially paginated beginning with the first page. The Committee further decided that, although it would be beneficial for attachments to be serially paginated (thereby allowing CiteLink to create the most accurate hyperlinks to the

proper page of a cited attachment) the rule should not mandate it at this time. Therefore, LBR 9004.1(a) was reworded to eliminate the requirement that all pages in exhibits and/or attachments must be serially paginated.

The Committee further recommended that the language governing citations to unpublished decisions be moved from LBR 9013 to LBR 9004.1, to make clear that unpublished decisions should be cited using the designated format in all documents, not just in briefs and memoranda.

LBR 9013.1: Because many persons use Microsoft Word rather than WordPerfect, there was a discussion about whether to amend LBR 9013.1(e) to include both WordPerfect and Word.

The Committee recommended that the final sentence of LBR 9013.1(e) be deleted because a local rule is not necessary for the Court to request that a brief be submitted in word processing format.

Standing Order 08-4: Form numbers were updated and paragraph (b)(5) was amended as noted above.

Standing Order 11-3: Form numbers were updated and the Committee discussed whether Section VI.C should require a Real Property Creditor to submit a mortgage payment history that matches Standing Order 11-3 Exhibit G, or whether it should require a mortgage history substantially conforming to new Official Form 410A, Mortgage Proof of Claim Attachment.

Judge Karlin also asked Committee members whether they were aware of concerns that require a more global overhaul of Standing Order 11-3. No material concerns were raised.

The Committee recommended that Standing Order 11-3 Section VI.C should delete the reference to Exhibit G and replace it with a reference to Official Form 410A, thereby requiring Real Property Creditors to provide a mortgage history in substantial conformity with Official Form 410A.

Standing Order 12-2: This Standing Order was initially issued to adopt Interim Bankruptcy Rule 1007-I, which was later adopted as Bankruptcy Rule 1007-I. Therefore, David Zimmerman recommended that it be abrogated.

The Committee recommended that Standing Order 12-2 be abrogated as moot because Federal Rule of Bankruptcy Procedure 1007-I has been adopted.

Standing Order 13-1: Form numbers were updated in the sample notice attached to this rule. David Zimmerman also recommended that Interim LBR 2004.1 be adopted as a permanent rule after notice and comment, mooting Standing Order 13-1. He therefore recommended that Standing Order 13-1 be abrogated by the order of adoption when it is eventually issued to adopt the amended Local Bankruptcy Rules that will become effective March 17, 2016.

The Committee recommended that Standing Order 13-1 be abrogated when Interim LBR 2004.1 is adopted as permanent LBR 2004.1 after notice and comment.

It was suggested that the Clerk's Office prepare a summary of changes being made to the local rules and make it available to attorneys.

Managing Publication of Standing Orders Issued and Mooted Between Published Copies of the Local Rules Booklet

Anticipating that the Court will publish new rule books in the Spring of 2016, David Zimmerman invited the Committee to give feedback on the best way to explain which Standing Orders were issued and abrogated since the last publication of the local rules. Several options were considered. It was noted that copies of all Standing Orders in effect since January 1, 2014, including orders that were subsequently abrogated, appear on the Bankruptcy Court's public website and a copy of each Standing Order is filed in CM/ECF in miscellaneous proceeding number 14-1.

The Committee recommended that when a Standing Order is abrogated, the caption and number of the Standing Order should be included in the next publication of the Local Rules with an indication that it is "Abrogated." In subsequent publications, abrogated Standing Orders should be eliminated from the published booklet.

Chapter 13 Trustee Fees

The Committee discussed at length whether to amend the language governing Chapter 13 trustee fees in Standing Order 11-3, Section V.A.

The Committee recommended against modifying the language governing Chapter 13 trustee fees that was adopted by Standing Order 14-4. It also recommended an explanatory footnote be added to explain that effective December 9, 2014, D. Kan. Bk S.O. 14-4 amended D. Kan. Bk S.O. 11-3 to conform the language to the new interpretation of 28 U.S.C. § 586(e), which allows a variable percentage fee.

Possible Amendment of Local Bankruptcy Rule 9037.1(c)

Motions to Redact are automatically filed under seal, so CM/ECF cannot serve a copy of the motion upon other parties electronically. Jill Michaux reported that on occasion she (as debtor's counsel) was not served a copy of the creditors' motion to redact, even though the certificate of service stated that she was. She was not sure whether the copy did not reach her because it was lost in the mail or because creditors' staff did not realize that service of a motion to redact must be served outside of CM/ECF in order to be received. Jill Michaux said no amendment to LBR 9037.1(c) is required. In fact, she said she had submitted our local rule as a model to the Rules Committee. No further action on this issue was recommended.

Rules Committee Report

Jill Michaux reported on the recent activities of the Bankruptcy Rules Committee. The biggest news was the fact that the bankruptcy forms are changing effective December 1, 2015. She also reported that during the October 1, 2015 meeting, the national Chapter 13 plan and the so-called "compromise" were discussed. The compromise would allow each district to opt out of the national form plan if the district adopts one local form plan. The national form plan and accompanying rule changes have been drafted but are not being sent to the Standing Committee yet because at least one group representing consumer debtors asserted it had not been at the table during compromise discussions. Discussions are ongoing with that group, and there is some expectation that the compromise will be adopted. Opinions about the compromise remain mixed.

She further reported that new rules are being proposed to address *Stern* and *Wellness* issues. It was noted that our Court has already addressed this issue locally by including express language about the Bankruptcy Court's jurisdiction in the Court's scheduling and pretrial orders.

Designating Payments to Unsecured Creditors in the Chapter 13 Plan

One creditor's attorney recommended that it would be helpful for Chapter 13 plans to disclose the amount that will be distributed to unsecured creditors. Debtors and Chapter 13 trustees commented that it is nearly impossible to forecast with accuracy what amount will likely be available for distribution to unsecured creditors because circumstances in the case typically evolve as the case progresses. It was also noted that in districts where more precise statements about distribution amounts are included in the plan, procedures become more complex, unwieldy, and expensive because multiple plan amendments are required.

Proposed Additional Standard Language in All Chapter 13 Confirmation Orders

Laurie Williams explained that to prevent Chapter 13 trustees from being estopped from challenging security interests and secured claims filed after confirmation of a plan, the Chapter 13 trustees have recommended that the following language be included in standard confirmation orders. That way trustees' and debtors' protective objections to plans in cases where secured claims have not yet been filed can be resolved without delaying confirmation.

> The confirmation or modification of a plan by virtue of this order shall neither prejudice nor estop the chapter 13 trustee, the debtor, nor the bankruptcy estate from the following actions with respect to secured debts for which no proof of claim has been filed before the date of this order: (1) challenging the validity, enforceability, and/or perfection of the lien(s) or security interest(s); (2) objecting to the allowance of such claims when or if filed; or (3) requesting reclassification of such claim(s).

This language is currently being inserted into plans confirmed by Judge Nugent. Questions were raised about whether this language opens the door to an argument that the confirmation order is not a final judgment on all issues.

The Committee supports the proposed language change in confirmation orders and recommends its adoption.

Jill Michaux commented that under new rules being considered, secured creditors will be required to file a claim if they want to be paid.

Further Discussion of Standing Order 15-4

Standing Order 15-1: David Zimmerman recommended that Standing Order 15-1 governing Debtor Electronic Bankruptcy Noticing (DeBN) be abrogated after Interim LBR 9036.1 is adopted as a permanent local rule after notice and comment. The order of adoption, which will adopt the final local rules after publication, could be the procedural mechanism to abrogate Standing Order 15-1. Thus, abrogation of Standing Order 15-1 should not be included in Standing Order 15-4.

The changes being made by Standing Order 15-4 will be published for comment and become permanent rules effective March 17, 2016, assuming no comments are received that warrant further consideration of the proposed changes.

The Committee agreed to recommend abrogation of Standing Order 15-1 once Interim LBR 9036.1 is adopted by an order of adoption as a permanent local rule.

Standing Order 15-2: David Zimmerman recommended that Standing Order 15-2 be abrogated because its provisions are being incorporated into Standing Order 15-4.

The Committee recommended that Standing Order 15-2 should be abrogated by Standing Order 15-4.

Standing Order 15-3: David Zimmerman recommended that Standing Order 15-3 not be made a permanent local rule because it is merely an administrative order governing Court Registry Investment System (CRIS), the program now used by the Court to manage registry funds.

[Editor's note: after the conclusion of the meeting some other minor grammatical editions were also made to the Local Bankruptcy Rules. Those changes were noted on the attached draft, circulated to the Committee, and approved along with these minutes.]

The Committee agreed to recommend draft Standing Order 15-4 and the revised versions of the Local Bankruptcy Rules and Standing Orders attached to it. A copy of draft Standing Order 15-4 is attached to these minutes.

Interpreters

David Zimmerman explained that the District Court had approached the Bankruptcy Court to see if using Bench Bar Funds to pay for certain interpreter services for court hearings might be beneficial to the Bankruptcy Court. It was noted that telephonic interpreter services are used routinely by the Department of Justice for 341 meetings with great success at a reasonable price. Concerns were voiced that using ad hoc interpreters (like a debtor's friend or family member) for court hearings may be unreliable, so using Bench Bar Funds to pay certified interpreters to translate testimony of non-English speakers for the trier of fact could be a great benefit to the Bankruptcy Court.

The Committee recommended that the Bankruptcy Court should request the use of Bench Bar Funds to provide interpreters when it would benefit the trier of fact.

341 Meeting Schedule

Emily Metzger noted that an attorney had posted questions on the bankruptcy listserve about 341 meetings and the order in which the trustees called

debtors for their 341 meeting. She advised that she had passed along this information to the U.S. Trustee's Office for consideration.

Order of Confirmation Dockets

Emily Metzger noted that an attorney had recommended that confirmation hearings should be called in reverse numerical order so that the oldest cases are called last. Judge Karlin noted that she calls her afternoon Chapter 13 confirmation docket in reverse order, because that allows less complicated plans to be considered before plans in cases that have required numerous continuances. This suggestion was enthusiastically received by the Committee. It was noted that some Judges call all cases in the same docket, whereas other Judges divide confirmation dockets into cases called for the first time and cases where there have been one or more confirmation hearings. It was also noted that there is a perception that calling the oldest cases first may reward attorneys who have either delayed resolving long-standing confirmation issues (by calling their cases first), or conversely punish attorneys who have relatively newer cases with fewer problems, who then have to wait the longest for their cases to be called.

Judge Karlin will mention this issue to the other Bankruptcy Judges.

Amendments to the Federal Rules of Civil Procedure

Judge Karlin explained that her law clerk had surveyed the upcoming changes to the Federal Rules of Evidence and Federal Rules of Civil Procedure. There are no changes that require amendments to our Local Bankruptcy Rules. Changes of particular interest include: Rule 4 will require service of a complaint within 90 days rather than 120 days; Rule 26 will change to include a proportionality standard for discovery; and Rule 55(c) is also being amended.

The meeting was concluded at 2:15 pm.

Minutes of the Bench Bar Committee
Topeka Courtroom 210
May 8, 2015

Members Present:	Emily B. Metzger, Chair Hon. Janice M. Karlin, Judges Representative Jordan Sickman, U.S. Trustee's Office David Arst Wendee Elliott-Clement Laurie B. Williams Jill A. Michaux Steven Rebein, Justin W. Whitney Andrew J. Nazar David Lund
Court Staff Present:	David Zimmerman, Clerk Stephanie Mickelsen, Chief Deputy Clerk
Members Absent:	None

Emily Metzger called the meeting to order at 10:05 am. She noted that the committee had approved the minutes from the previous meeting via e-mail.

Old Business

Possible Modification to D. Kan. Bk. Standing Order 08-4(b)(5) to Require Email Notice of Letter Alleging Default

Emily Metzger noted that, apart from the ongoing question of any possible amendments to our Chapter 13 Form Plan, the only outstanding old business item is the possible modification of D. Kan. Bk. Standing Order 08-4(b)(5) to require a mortgage creditor to email any letter alleging default to the debtor and the debtor's attorney. Jill Michaux reported that the speed of delivery by surface mail of the warning letter that is required before a creditor seeks to modify the automatic stay is not improving. She renewed her request that when the warning letter is sent by U.S. mail, a copy should also be sent electronically to debtor's counsel because it takes a large part of the 10-day period provided by the rule for the letter to arrive. She stated that there is a movement to address this issue nationally, but that would take years before a national rule could be promulgated. It was suggested that the letter might be filed with the court, thereby prompting an ECF notification to counsel. Jill Michaux responded that that would be acceptable, but it would highlight the debtor's default (and perhaps result in the trustee or the judge invoking the conduit mortgage rule). It was suggested that from a creditor's point

of view, filing it could help demonstrate that there were multiple defaults and multiple cures. It was also suggested that changing the 10-day period to a 14-day period would help resolve the concern and would bring the rule into conformity with the counting periods used by the federal rules generally.

The Committee resolved unanimously to recommend the period of time in Standing Order 08-4(b)(5) be increased from 10 days to 14 days. It further resolved that creditors' counsel are encouraged to contemporaneously email a copy of the letter alleging default to debtor's counsel at the same time the letter is sent by regular mail.

Judge Karlin and David Zimmerman will consult about the best way to implement this proposed change to Standing Order 08-4.

New Business

Debtor Electronic Bankruptcy Noticing (DeBN) and Proposed D. Kan. Bk. S.O. 15-1

David Zimmerman advised that Debtor's Electronic Bankruptcy Noticing (DeBN) is a new program that allows debtors to open an account with the Bankruptcy Noticing Center so they can receive copies of court-issued notices and orders by email rather than by regular mail. It is different from the Notice of Electronic Filing (NEF) issued by CM/ECF. Proposed Standing Orders 15-1 and 15-2 are proposed to govern DeBN. Previous drafts containing the substance of these orders were unanimously approved by the Committee by email. The question presented to the Committee is what the effective date should be, i.e. from what date forward will debtors in every new voluntary case be required to file a DeBN opt-in/opt-out form.

David Zimmerman introduced the DeBN Request Form and explained how it is designed to minimize errors by requiring debtors to enter their email twice in all capital letters. It would be filed as a private entry, but the debtors' emails will be publicly visible on the certificate of mailing.

Standing Order 15-2 merely adds a new subparagraph to LBR 1007.1(a)(2) so that it requires the DeBN Request Form to be filed in CM/ECF as a document separate from the petition. This is to allow the Clerk's Office to track debtors using DeBN and (it is hoped) eventually to automate what is now a manual process used by the Clerk's Office to create DeBN accounts.

When asked whether the DeBN Request Form will be provided to software vendors, David Zimmerman advised that he already has a list of vendors to whom the form will be provided. It is hoped that the vendors will include the forms in the

bankruptcy software packages so the program will be as easy as possible for attorneys. Some court DeBN Request Forms from other jurisdictions have already been picked up by at least one software vendor.

Other details about the DeBN program that were discussed include the following. DeBN will only email copies of documents that the court would otherwise mail to debtors. Attorneys will continue to receive ECF notices immediately when items are filed in CM/ECF but DeBN notices are sent the night after the items are filed (still several days before debtors would likely have received documents by regular mail). If the debtor has a DeBN account from a prior case, the account will remain active for subsequent cases. DeBN became active in Kansas on May 5, 2015, so debtors in existing cases are permitted to enroll in DeBN now. One email address is permitted per debtor and joint debtors can opt to use the same email address. It is unlikely that a DeBN account could send an email notice to multiple email addresses (e.g., to notify several individuals working for a corporate debtor), but if the debtor provides an email that is configured by the debtor to be forwarded to a distribution list then that action might allow distribution to multiple recipients. DeBN is at least 9 times more cost effective than mail notice. The DeBN Request Form should be filled out and signed electronically and filed, rather than printing the form, scanning, and filing the wet-ink-signed document.

Judge Karlin explained that there will be a strong presumption that a debtor with a DeBN account received items by email (since the court would receive a "bounce back" notice if the account has been closed). When asked about enforcement for failure to file a DeBN Request Form, David Zimmerman advised that a Notice of Deficiency will be issued. Judge Karlin stated that she herself has not had to decide what the consequences will be for failing to file.

Judge Karlin also noted that at the national level there is a proposed change to Fed. R. Bankr. P. 9036 to require entities to register for electronic noticing if they are sent more than 100 notices via BNC within a month. Some creditors receiving huge numbers of notices are not registered for electronic noticing. The enforcement mechanism for the proposed rule change is controversial. The Administrative Office of the U.S. Courts is considering setting up an email account for the creditors who meet the threshold and electronically sending all notices to that account (and giving the creditor access to the account with the ability to set up its own preferred email address).

Jill Michaux indicated that there is a proposal at the national level to allow attorneys to use the BNC to serve mailings and take advantage of preferred addresses provided by creditors to the BNC.

David Zimmerman explained that DeBN has been tested for an extended period of time in Central California and Central Illinois. In response to questions,

he also explained that DeBN will only provide electronic noticing of court-issued orders and notices to debtors. Service of documents by other parties won't change; they will need to be served as before. Creditors who desire electronic notification through the BNC can sign up for an EBN account with the BNC.

The principal question presented to the Committee about DeBN is when the court should begin to require debtors to file the DeBN Request Form in new cases. Jill Michaux recommended that the date be the first day of a calendar month. When asked how the new requirement will be publicized, Judge Karlin observed that the court can post it to the court's website and make an announcement on the bklistserve and post the requirement as part of this meeting's minutes. Jill Michaux suggested that the court post a PowerPoint showing how to file the DeBN form. David Zimmerman agreed that can be done. He also explained that some delay in implementing the requirement to file the DeBN form is advisable to (1) educate the attorneys about the new requirement and (2) to allow the court to provide the DeBN form to software vendors. He also explained that the court is making a fillable pdf version of the form available that will prompt the user to fill in the email address twice and verify that it was entered the same both times.

When asked how long software providers will need to make the DeBN form available to its attorney users, David Zimmerman answered that because there are so many software vendors it is unknown how much time they would each need to make the form available as part of their software.

July 1 was suggested as the mandatory start date. David Zimmerman opined that education about DeBN could be accomplished by July 1, but suggested that August 1 would provide software vendors additional time to include the DeBN form in their packages. Jill Michaux offered to begin using DeBN immediately.

The Committee unanimously recommended adoption of Standing Order 15-1 with August 1, 2015, as the date to begin requiring debtors in every new voluntary case to begin filing the DeBN opt-in/opt-out form.

In response to various questions about the DeBN Request Form, David Zimmerman answered that it was drafted locally using the best features from forms used by other courts around the country. It is acceptable for attorneys to replicate the form without individual cells for each letter of the email address if it is typed. All caps should be used to enter the email address on the form, particularly if handwritten, to make it easier to read and reduce errors. The pdf form will automatically use all caps.

David Zimmerman also explained that FAQs about DeBN are already posted on the court's website.

Andrew Nazar suggested adding the word "publicly" to the DeBN Request Form (second sentence) so it will read "I understand that my email address will appear publicly on any certificate of mailing filed by the electronic noticing provider." David Zimmerman agreed to make the edition.

The Committee unanimously recommended adoption of Standing Order 15-2 amending LBR 1007.1(a)(2).

Local Rule Addressing 11 U.S.C. § 521(f)

Judge Karlin posed the question whether a local rule should be adopted to govern requests pursuant to 11 U.S.C. § 521(f). As background, she explained that a local creditor had filed Section 521(f) requests in a number of Topeka Chapter 13 cases. This appeared to be the first time such requests had been made in this district . Judge Karlin indicated the statute required disclosure of the requested information in most instances, and that her biggest concern was with security, particularly of tax returns. She explained that there is a CM/ECF event that, if used, immediately locks the information and prevents others from seeing it. [Editor's Note: Two such events are found under the Bankruptcy Events menu, Other category, as events named "Tax Documents" and "Tax Documents Small Business."] And the concern for security might be less with a party who is already required by law to take prescribed measures to protect tax return information, such as a bank, as compared with a former spouse or a small entity (i.e., Joe's Bait Shop).

It was observed that only one creditor has filed such requests and none have been filed since. When asked about the motivation behind the requests, Judge Karlin recognized that creditors may have a reason to seek updated information under this statute since Debtors often promptly move to modify their plans to pay less when their income decreases, but seldom do so when their income significantly increases. The Chapter 13 Trustee opposed the requests on the basis that the trustee routinely reviews the tax returns (especially in above median income cases) to see if there was a big change in debtor's circumstances, but Judge Karlin noted that under the statute the creditor did not need to trust the debtor nor seek information through the trustee but could file a motion to formally obtain the records.

Laurie Williams stated that she was concerned about the risk of tax returns being made public. She opposed adoption of a local rule on the issue, explaining that if a debtor is concerned that a particular creditor, such as an ex-spouse or "Joe's Bait Shop," lacks the means to protect the sensitive tax information then the debtor could make a record of the concern and request ad hoc protection from the court.

Emily Metzger commented that a local rule might draw additional attention to the section. It was noted by another Committee member that it was not worth the time for most unsecured creditors to pursue these kinds of requests. Jill Michaux recommended against creating a local rule because it would encourage Section 521 requests. She also invited the court to look at two dictionary events that are similarly named. She thought one event might lock the tax information and the other might not, although she had not used either event. [Editor's Note: The "Tax Documents" and "Tax Documents Small Business" are found under the Bankruptcy Events menu, Other category. Documents filed using either of these events are restricted from public view.] Jill Michaux said that she tried to ascertain if Section 521 requests are being made in other courts around the country, but found no one who was routinely making such requests. She also said that if a non-bank made requests, she would want specific protections from the court and might want to file the documents with the court rather than submitting the information directly to the creditor. Judge Karlin said she would be open to such requests.

No one on the Committee thought that more formal action should be taken on this issue.

Requiring Filers to Provide Email Address for Service and Other Contact

Andrew Nazar brought two recommendations at the request of a non-committee member of the bar. The first request was that if a creditor or pro se debtor communicated by email, they should thereafter be deemed to consent to service by email. The request grew out of a situation where she was corresponding with a creditor who would send her materials by email but would not accept email from her so she had to also mail everything to the creditor by regular mail. Andrew Nazar voiced concern that because of Fed. R. Bankr. P. 9036 and 7004 and Fed. R. Civ. P. 5 the proposal was impermissible because a party had to take an affirmative step such as signing up for CM/ECF or requesting electronic service before the party could be served by email. Therefore, he thought a local rule could not enforce what was requested.

Jill Michaux asked if a creditor could be required to sign up for electronic noticing. David Zimmerman indicated that an amendment to Rule 9036 is under consideration. Judge Karlin noted that the amendment would apply only to creditors who received 100 notices per month by mail. Jill Michaux noted that the 3-day rule for service is being eliminated for electronic service but not for mailed service.

The Committee decided that no action could be taken on the request.

Proposed Amendment to the Court's Discharge Order to Reflect Lack of Judgment Liens on Homestead Property

Andrew Nazar explained that the second request grows out of title company requests for comfort orders stating that liens do not attach to homestead property even though Kansas law is extremely clear that liens do not attach and no order is necessary. Emily Metzger agreed that the law is clear. Judge Karlin observed that a generic recitation of the law in the discharge order is not likely to satisfy a title company (without a specific legal description actually identifying what real property is the homestead). She explained that she has a text order that she enters when these motions are filed, hoping it will discourage others from filing the motions, which she thinks are unnecessary under settled Kansas law. She finds it hard to believe that there is a title company that does not understand this point of law, though she does not mind signing the comfort orders in the rare cases where debtor's counsel is getting push back. [This is an example of the text Judge Karlin frequently uses: "I sign this as a 'comfort' order, only, since I believe the order is unnecessary under Kansas law. See Deutsche Bank Nat. Trust Co. v Rooney, 39 Kan. App.2d 913, 917 (Kan. App. 2008) (holding judicial lien doesn't even attach to homestead property), thus no lien to remove/release."]

Judge Karlin observed that the December 2007 version of the discharge order contains three provisions about nondischargeable debts that are only applicable to cases filed on and after October 17, 2005. All agreed that those lines can and should be removed since there should be no further discharge orders in pre-BAPCPA cases. But she recommended further review of the discharge order for any changes needed, and invited the Committee to review the discharge orders. Comments will be shared by email.

Jill Michaux observed that the discharge order under discussion was marked as Official Form B18, but is a variant of the national form, but if new Rule 9009 is adopted then it will not allow us to alter national forms.

David Zimmerman added as an aside that the court has now adopted an autodischarge feature that will automatically enter discharge in cases that meet the array of requirements. Therefore, if a party wishes to delay discharge (for example, to file reaffirmation agreements since some judges will not reopen cases for a post-discharge reaffirmation agreement), they should be sure to file a motion to delay entry of discharge.

David Zimmerman will send the Committee the current Chapter 7 and Chapter 13 discharge orders to review.

National Form Plan Update

Laurie Williams shared that the national form plan comment period ended in February and received more comments than any other rule has received, including a letter signed by 144 bankruptcy judges opposing the form plan. Most comments were in opposition. After a hearing on the plan, two judges proposed a last-minute compromise that would allow bankruptcy courts to use a single, locally-approved form plan, otherwise the national form plan would be required. In April, the vote was to pursue the compromise with further amendments to be made. It is now before a subcommittee.

Judge Karlin explained that a 9-judge subcommittee drafted the letter in opposition that the 144 judges signed. The letter basically said we do not need or want a national form plan. The two judges who proposed the compromise made the proposal without first clearing it with the other 142 judges. The compromise would not impact Kansas—at least today since we have our own form plan, but the concern is that it establishes a slippery slope and would be used as a means to impose the national form plan in a few years. Advocates of the national form plan are also proposing that provisions be included in the compromise plan to make it more like the national form plan. Those changes would require us to amend our plan to place certain things in certain places, but would not dictate most of the contents.

Laurie Williams explained that some are trying to minimize the number of changes so they can avoid republishing the plan for more public comments. That would allow it to become effective December 1, 2016, rather than in 2018. Jill Michaux explained that those asserting it need not be republished espouse that the compromise is a lesser included proposal so it need not be republished.

Jill Michaux listed those who testified in favor and in opposition to the national form plan. She also said there were 30+ bankruptcy judges who signed a letter in favor of the national form plan, 144 bankruptcy judges who signed a letter in opposition, and 83 trustees who oppose the plan. At the beginning of the hearing, the chair of the standing committee noted that because of the extent of the opposition, something like a lesser plan or interim pilot project should be considered, so questions were asked about what kind of lesser proposal should be considered. The proposed compromise grew out of that discussion. At a subsequent April 20 meeting, a general concept of a compromise plan was supported. Jill Michaux outlined the essential elements that would determine whether a local plan would qualify as a "conforming plan" under the compromise. Some of the initial supporters of the compromise no longer support it. Jill Michaux said everyone supports the concept of a compromise, but they dislike the compromise under consideration when they learn the details. Jill Michaux understood that NACTT, NACBA, and NCBJ refused to take a formal position on the national form plan

because members are on both sides of the issue. Judge Karlin said the Bankruptcy Judges Advisory Group refused to take a position for the same reason. Jill Michaux said the issue was assigned to the forms subcommittee to work on the details of the compromise. She is on the subcommittee. Judge Dow of the W.D. Mo. is the chair. There is concern about the politicization of the Rules Committee, due in part to increased access to information via the internet.

Judge Karlin noted that once the Rules Committee adopts a rule, it goes to the Judicial Conference, then to the Supreme Court.

Jill Michaux said that if there had been a vote on approving the plan or no plan, there would have been only one or two votes against adopting the national form plan notwithstanding the comments.

National Rules Changes Update

Jill Michaux provided a detailed report on changes to national rules and forms. She said there will be form changes to address ABLE accounts, which are like health savings accounts for disabled persons.

Separate forms will be issued for individuals as a 100-series and non-individual entities as a 200-series. The 300-series are for notices and 400-series will be claim forms.

Form questions will be different so software will be different. Forms were changed to make it easier for pro se debtors to fill them out by hand. They are longer and may ask several questions where the previous form asked only one.

Amending forms will be more complicated because of the mismatch between old and new forms. Jill Michaux suggested that debtors might seek leave to amend using the old forms.

Lengthy instruction booklets will accompany the forms, similar to IRS instruction booklets for Form 1040.

Electronic Self Representation (ESR) is available in California Central, New Mexico, and New Jersey. This software helps Chapter 7 pro se debtors enter data and print forms to file with the court, similar to TurboTax. This is an effort to relieve the Clerk's Office from typing pro se forms, Jill Michaux says. ESR users will be permitted to use old forms because ESR software is not ready for the new forms. Jill Michaux has concerns that it will encourage pro se filers and internet petition preparers.

New Form 410A will replace Attachment A to automate mortgage companies' itemizing charges by date and amount.

Rule 5005(a) will conform to Fed. R. Civ. P. 5(d). Electronic filing will be required by everyone but pro se filers because of concerns about prisoner filers.

Rule 1006(b) is being amended to say individual districts can have their own rules about paying filing fees in installments, but they must accept a petition even if the filing fee is not paid. Courts cannot refuse to file the petition for failure to pay but can issue a deficiency order. Judge Karlin noted that our court has tightened its enforcement of installment fee payments and is more frequently dismissing cases (especially in Chapter 7, where there is no plan on file, as in Chapter 13s, to pay the fees). Jill Michaux said she fought vigorously to protect the debtors' ability to pay the filing fee through the plan.

Additional discussion of federal civil rules and evidence rules will take place during the Committee's next meeting. Judge Karlin said she will volunteer one of her law clerks to review the changing rules to determine how they will impact our court rules.

As an aside, David Zimmerman asked for feedback about a new CM/ECF dictionary event that the Clerk's Office is considering. It would allow parties to create a record on appeal by clicking buttons next to a list of docket items in the case. The event would then generate the record on appeal including hyperlinks to the selected docket items. Exhibits, which are not filed in the case, would need to be listed in addition to the selected items. The Committee enthusiastically supported the proposal. The bankruptcy court is talking with the district court to learn whether it would accept a notice of electronic availability of the record in lieu of the record on appeal itself.

Jill Michaux noted that proposed Rule 9009 would prohibit local amendments to national forms. That was geared principally to preventing local courts from modifying the national form plan, but she notes that there may be unintended consequences. She invites people to let her know of any examples.

Jill Michaux advised that the Proof of Claim Form is also changing.

Jill Michaux explained that all of the new proposed forms will go into effect on December 1, 2015. The new forms are located in the agenda books. Judge Karlin suggested that the link be included in the minutes. [Editor's Note: The Standing Committee agenda books for the April 20-21, 2015 meeting and the May 28-29, 2015 meeting can be downloaded from http://www.uscourts.gov/rules-policies/records-and-archives-rules-committees/agenda-books.]

The meeting was concluded at 12:31 pm.

Minutes of the Bench Bar Committee
Topeka Courtroom 210
October 28, 2014

Members Present: Emily B. Metzger, Chair
Hon. Janice M. Karlin, Judges Representative
Joyce Owen
David Arst
Wendee Elliott-Clement
Laurie B. Williams
Jill A. Michaux
Steven Rebein, Chapter 7 Trustee
Justin W. Whitney
Andrew J. Nazar

Court Staff Present: David Zimmerman, Clerk
Hugh Zavadil, Chief Deputy Clerk

Members Absent: David Lund

Emily called the meeting to order at 10:04 a.m. She noted that the committee had approved the minutes from the previous meeting via e-mail. She also provided a brief overview of the agenda.

Old Business

Payment Change Notice

Wendee Elliott-Clement reported that the Western District of Missouri had promulgated local rules pertaining to Fed. R. Bankr. P. 3002.1 Notice of Fees to eliminate the need for a trustee to object to a Notice of Payment Change in cases where the mortgage was not being paid through the plan. After a brief discussion, it was decided that no corresponding local rule is necessary at this time because the Chapter 13 Trustees in Kansas handle the process differently.

Need for Revision to Local Rules Given change in UST Policy regarding 28 USC 586(e)

At the last meeting, the Committee recommended a change in the form plan to address the U.S. Trustee's new policy requiring Chapter 13 fee assessment at the time of collection instead of at disbursement. A subcommittee agreed to review our local rules and standing orders to see if any other rules needed amendment due to this change in interpretation. A review of our rules and standing orders identified two rules needing revision: 1) D. Kan. LBR 3015(b).1(g)(2)(ii) (dealing with

adequate protection/plan payments); and 2) D. Kan. Bk. S.O. 11-3 (Conduit Mortgage) Section V paragraph (A) regarding Trustee Duties. The consensus of the group was to avoid amending the conduit rule, since it is referred to in other rules and is commonly known by that number, and instead recommend that the court adopt a new Standing Order that would abrogate recently enacted D. Kan. Bk. S.O. 14-3 (enacted to change language in the Form Chapter 13 Plan relative to these trustee fees) and incorporate its current provisions dealing with the form plan, together with a revision to the previously described section of D. Kan. Bk. S.O. 11-3. In the meantime, Judge Karlin asked members of the committee to review D. Kan. Bk. S.O. 11-3 to determine if other revisions are necessary. That matter will be discussed at the next Bench Bar Meeting unless any member wishes to discuss it earlier by email.

Possible Revisions to D. Kan. Form Chapter 13 Plan

At the June 23, 2014 Meeting, a sub-committee (with Laurie, Jill, Justin, and Emily as members) was appointed to perform a comprehensive review of the Chapter 13 form plan to determine if other modifications were necessary or desired. Laurie noted that, despite multiple requests for comments via the bk-listserv, the subcommittee received very few comments from the bar. One or more members of the sub-committee offered the following recommendations for the full committee's consideration:

- Modify Paragraph 1(a), which deals with whether debtor is above or below median, to have a series of check boxes for each option instead of the current drop-down lists.

- A concern was raised regarding Paragraph 1(b). It was suggested that, if a fixed payment amount and a fixed number of months are specified in the plan and a debtor's circumstances change, the debtor would be locked in to the debtor's disadvantage. Laurie indicated she would prefer to keep this section unchanged. The court can order a change based on changed circumstances and a debtor could initially include non-standard provisions on a case-by-case basis.

- Modify Paragraph 6, which deals with Domestic Support Obligations, and the language following so that, if the plan preparer checks the box indicating there is no DSO, the subsequent language would be collapsed or deleted.

- Modify Paragraph 9(b)(i), which deals with debts secured by a principal residence, and the language following so that, if the debtor checks the box indicating there is no residential mortgage, the language regarding the residential mortgage would be collapsed or deleted. Concern was expressed,

however, that allowing debtors to omit irrelevant provisions may result in non-uniform form plans.

- Add a plan paragraph estimating the anticipated dividend to non-priority unsecured creditors. Laurie noted that the Chapter 13 Trustees oppose any attempt to specify a dividend amount since there are too many unknown or variable factors to allow debtors to accurately predict the dividend at the time of plan preparation. Therefore, objections and subsequent litigation would be more likely. Some members of the committee suggested that unsecured creditors cannot reasonably interpret most plans without some estimation. Consequently, they do not have a basis to evaluate the plan. Concern was expressed that debtors should disclose when there is little likelihood that unsecured creditors will receive a dividend. It was suggested that such a provision might fit best under Paragraph 14 as a checkbox provision.

- Paragraph 9(c)—"Other Debts Secured by non-residential Real Estate Liens"—purports to only apply to non-residential real estate, but ¶9(c)(iii) describes mortgages that are being modified. This provision under limited circumstances could also apply to residential mortgage debts. If and when the plan is modified, the subcommittee unanimously recommends that subparagraph (c)(iii) be moved to a new subparagraph (d) and subparagraph (c)(iv) be similarly moved to a new subparagraph (e) and stated "any creditor treated under Paragraph 9(c)(ii) and 9(d)." In addition, all references to subparagraph 9(c)(iii) should be changed to 9(d). Likewise, references in the non-standard provision for Paragraph 9(c)(iv) should be changed to 9(e). The consensus of the committee was to accept these changes.

- The third sentence of Paragraph 8 has a grammatical error, it states, "nothing in this section operates to permit in personam relief, modify any applicable co-debtor stay or to abrogate Debtor's rights and remedies under non-bankruptcy law." The second clause should add a "to" so it will read "to modify any applicable co-Debtor stay." The consensus of the committee was to accept this change.

- Paragraph 8—Relief from Stay Regarding Property to be Surrendered"—states that "...any creditor may repossess, foreclose upon, sell or obtain possession of the property the Plan proposes to surrender without obtaining stay relief." It was suggested that this should be revised to state that "...any creditor and its successors in interest or assigns...." should also not have to seek stay relief after a surrender.

- There was discussion about whether to place all non-standard provisions in

a single paragraph rather than after each specific paragraph in the form plan. Various committee members were concerned that this may cause the non-standard provision to be ambiguous because it may not be clear which form plan paragraph is being amended by the non-standard language.

Upon completion of the review of the above items the group discussed whether the proposed changes were significant enough to warrant modification of the Standing Order and the form plan at this time. Given the uncertainty surrounding the possible adoption of a mandatory national plan, the consensus was that any action on these items be deferred until the status of the national form plan becomes clearer.

D. Kan. SO 8-4 and possible email notice to Debtor Attorney

Jill introduced a discussion of D. Kan. Bk. S.O. 8-4, dealing with information a creditor must supply consumer debtors who are paying their debt to mortgagees or auto lenders directly. At the June meeting, Jill suggested adding a requirement to the notice provision contained in D. Kan. Bk. S.O. 08-4(b)(5). That subsection presently requires a mortgage creditor to notify the debtor (and counsel) by letter, if the creditor believes the debtor is in default, before moving for relief from stay. Because of mail delays, Jill recommends creditors also be required to provide that notice by email to a debtor's counsel. Her rationale is that, because of our district's conduit rule, if a stay relief motion gets filed, the trustees will typically insist on compliance by amending the plan to make it conduit—which she wants to avoid if her client is not really delinquent or could quickly become current. In addition, her review of existing rules and standing orders reflected no other changes are necessitated to existing rules or standing orders if this change is adopted.

After a brief discussion, including a query whether this scenario actually occurs often enough for email notice to really make a difference, Jill agreed to monitor the frequency of occurrence and report at the next meeting. Each member of the committee was also asked to review D. Kan. Bk. S.O. 8-4 to see if any additional changes are warranted if a requirement for email notice is added in the future. This review is to occur prior to the next meeting. **In the meantime, creditors' counsel are strongly encouraged to provide email notice of the alleged debtor default, in addition to the surface mail requirement contained in the local rule.**

New Business

D. Kan. Bk. S.O. 14-2 re Extensions of the Stay under § 362

Emily introduced a discussion of D. Kan. Bk. S.O. 14-2, a recently effective

standing order dealing with procedures that should be followed when seeking an extension of the stay under § 362(c). Judge Karlin shared the concerns of the judges that the motions, affidavit/declarations, and scheduling of these matters are often defective in these areas: 1) failing to allow 14 days for objections by setting a hearing to occur before the expiration of 14 days; 2) setting the hearing, if an objection, on the 14th or 15th day, making it more difficult for the clerk to catch the pleading in time to actually "set" a hearing; 3) failing to attach an affidavit, and/or failing to have the affidavit sworn under penalty of perjury (or a 28 USC 1746 declaration under penalty of perjury); 4) confusion over the "48 hour" provision for conducting a hearing if the order is not entered earlier than 48 hours prior to the hearing; and 5) confusion over whether the order must be approved by the Chapter 13 Trustee prior to being uploaded. The group discussed a draft revision presented by Judge Karlin, which clarified the requirements for a Motion to Extend Stay and proposed additional revisions. Judge Karlin will prepare a revised proposal based on comments of the committee and circulate the draft at a later date.

December 1, 2014 changes to Federal Rules Appellate Procedure and Fed. R. Bankr. P. 8000 series

Judge Karlin explained that new Federal Rules of Appellate Procedure become effective December 1, 2014, which significantly alter procedures for bankruptcy appeals. As a result, the Bankruptcy Appellate Panel local rules are being amended, as well. Judge Karlin suggests a proposed revision to our district's single local rule dealing with appeals. She recommends eliminating D. Kan. LBR 8006.1 dealing with the record and issues on appeal, and replacing it, instead, with new D. Kan. LBR 8009.1 (the renumbering is consistent with the national rules) as follows:

LBR 8009.1
RECORD AND ISSUES ON APPEAL

Designation of Record. After filing the notice of appeal, the appellant must file by formal pleading within 14 days from the date the notice of appeal is effective pursuant to Fed. R. Bankr. P. 8002, a designation of the items to be included in the record on appeal and a statement of issues. The designation of the record must include the pleading numbers and file date of those pleadings designated. Parties must perfect their appeal pursuant to Fed. R. Bankr. P. 8009.

After discussing whether inclusion of new D. Kan. LBR 8009.1 is the local rules is truly necessary, since it only reiterates the content of the applicable federal rules themselves, the committee voted to recommend to the judges that D. Kan. LBR 8006.1 instead be eliminated from local rules without replacement.

David Zimmerman and Judge Karlin also noted that U.S. District Court D.

Kan. Rule 83.8.10 will likely need amendment to conform to some rule and style changes, and that the District Court Clerk seeks our guidance on local rule changes impacting bankruptcy. As a result, David agreed to draft a memo for Judge Nugent's signature that outlines the proposed changes and recommends new language.

David Zimmerman introduced a discussion regarding the pending update to Fed. R. Bankr. P. 7054, which changes the procedure for seeking attorney 's fees in bankruptcy proceedings. New Rule 7054 includes much of the substance of Civil Procedure Rule 54(d)(2) and Rule 7008(b), which currently addresses attorney's fees, will be deleted. David noted that D. Kan. Rule 54.1 and 54.2 govern some of the same topics as the new federal rule, and are not entirely consistent with the pending federal rule. David was asked to incorporate any specific recommendations into draft rules for the committee's review.

David Zimmerman introduced a discussion regarding the pending update to Fed. R. Bankr. P. 8001(c), which now provides for service of the notice of appeal electronically instead of by mail. After a brief discussion, it was decided that no local rule was necessary at this time. It was suggested that David also incorporate any additional suggestions into either draft rules or his memorandum for Judge Nugent to the U.S. District Court and, if desired, the same could be circulated to the committee for review and comment.

New Judicial Conference Policy regarding Motions to Redact

Judge Karlin explained the new judiciary redaction policies concerning personal identifiers, which will become effective December 1. Those policies make clear that one need not reopen a closed bankruptcy case (with the attendant reopening fee) to seek redaction, but impose a new $25 redaction fee per case affected. Judge Karlin also presented a draft local rule governing such requests. After extensive discussion, it was decided that David and Judge Karlin will revise the proposed rule to reflect the input provided by the committee.

Possible Extension of D. Kan. LBR 2014.1 Application For Employment of Professionals to Chapter 13s

Jill suggested the addition of a new subsection (i) that would limit notice of the employment of a professional to only the UST and the Chapter 13 Trustee in Chapter 13 cases. After an extended discussion, the majority of the committee opposed this proposal.

Proposal to allow corporate creditors to appear without counsel to defend a claim

Mike Munson requested a local rule permitting corporate creditors to appear without counsel when responding to a claim objection, suggesting a similar rule exists in the Western District of Missouri. Committee members researching this proposal determined that there is no such local rule in the WDMO; that the proposal is contrary to D. Kan. 9010.1, which prohibits the practice;, and found it would be impractical for a number of reasons. The committee took no action.

Text Orders

Emily raised a concern expressed at a recent Wichita Bankruptcy Council meeting that text orders could be used on a more widespread basis. Hugh was asked to make sure that the minutes reflect that the Court is receptive to use of text orders, and that the following text orders are available:

- Borrow by Debtor-Denied
- Borrow by Debtor-Granted
- Ch 13 Trustee Dismissal-Denied
- Commence Distribution
- Compel-Denied
- Continue Hearing
- Objection to Claim-Denied
- Objection to Exemptions-Denied
- Objection to Exemptions-Granted
- Relief from Stay-Denied
- Relief from Stay-Granted
- Sell by Debtor-Denied
- Sell by Debtor-Granted
- Suspend Plan Pmts-Denied
- Suspend Plan Pmts-Granted
- Terminating Show Cause Order - Compliance
- Terminating Show Cause Order - No Compliance

Report of National Rules Committee

Jill provided a report of the meeting of the national rules committee. The members, at the most recent meeting of that committee, acted on very few issues because most of the items were still out for public comment. She did share that attorneys should submit new public comments on the revised form plan and attendant rules at this address:
http://www.uscourts.gov/RulesAndPolicies/rules/proposed-amendments.aspx).
Only Anew@public comments are showing on the commenting website, www.regulations.gov<http://www.regulations.gov/>. If you have previously commented, and the Rules Committee did not adopt your recommended change, or,

if you were opposed to and still remain opposed to a national mandatory plan, you should make the comment again or it may not be considered. Further, the committee may interpret failure to comment as a signal that the revised mandatory plan is now desired. At the time of the Bench-Bar committee meeting, only six public comments had been received on the revised form plan and related rules. The public comment period runs to February 17, 2015.

The Hon. Sandra Ikuta of the Ninth Circuit Court of Appeals is the newly appointed chair of the committee. Bankruptcy Judge Eugene Wedoff (ND Ill.), the outgoing chair, has been invited to continue to participate in group meetings.

Jill also reminded the committee of the other rules that become effective December 1. Among the changes are:

- Extensive revision of appellate rules and forms,
- Changes in the time available for service of summons,
- Changes in how cases are processed when multiple petitions are filed in multiple districts,
- Changes in the way attorney fees are awarded,
- Revised means test forms, and,
- Revised Motion/Order to Waive Chapter 7 Filing Fee.

Finally, Jill reported that the next big project for the national rules committee will be an extensive review of noticing requirements. The committee hopes to modernize the noticing process to take advantage of the technological advances that have occurred since the existing rules were enacted. It is anticipated that this process will last several years.

Departure of Chief Deputy Clerk Hugh Zavadil

Judge Karlin informed the committee that long-time Chief Deputy Hugh Zavadil had taken a new position and was leaving our Court November 7. The Committee extended their thanks and congratulations to Mr. Zavadil and gave him a standing ovation for his long-standing service to the Bench Bar Committee and to the Court.

The meeting was adjourned at 2:43 p.m.

Minutes of the Bench Bar Committee
Topeka Courtroom 210
June 23, 2014

Members Present: Emily B. Metzger, Chair
Hon. Janice M. Karlin, Judges Representative
Joyce Owen
Gary E. Hinck
David J. Lund (new member July 1, 2014)
Paul D. Post
Laurie B. Williams
Jill A. Michaux (new member July 1, 2014)
Eric L. Johnson
Robert L. Baer, Chapter 7 Trustee
Justin W. Whitney (new member July 1, 2014)
Andrew J. Nazar (new member July 1, 2014)

Court Staff Present: David Zimmerman, Clerk
Hugh Zavadil, Chief Deputy Clerk

Guests: Michael K. Grigsby and Jorge M. De Hoyos Court Externs

Members Absent: Dana M. Milby, David G. Arst, and Wendee Elliott-Clement

Emily Metzger called the meeting to order at 10:00 a.m. She noted that the minutes from the previous meeting had been approved via e-mail. She also provided a brief overview of the agenda.

Old Business

Emily reported that D. Kan. Bk. S.O. 14-1 regarding Limited Scope Representation was adopted by the Court. There has been no reported feedback on the Standing Order. She also noted that D. Kan. Bk. S.O. 14-2 regarding Extensions or Imposition of the Automatic Stay will become effective July 1. Again, no feedback has been received.

Emily also shared that the minutes from the previous meeting reflected that Wendee Elliott-Clement was going to work with Laurie Williams to draft proposed language regarding Fed. R. Bankr. P. 3002.1. Given Ms. Clement's absence from the meeting, no proposal was considered.

Proposed Modification to the Kansas Form Chapter 13 Plan

The Executive Office of the U.S. Trustees (EOUST) will implement a new policy on October 1, 2014, that will require the standing chapter 13 trustees to

assess the trustee fee on all receipts. Presently, the trustee fees are taken only when money is disbursed. The EOUST change is the result of a more literal interpretation of 28 U.S.C. 586(e)(2), and will mainly impact cases that are closed without a plan having ever been confirmed. Presently, when a Chapter 13 is dismissed without a confirmed plan, the funds are returned to the debtor and the Chapter 13 trustees take no fee on those returned funds.

The District of Kansas' current Chapter 13 form plan does not accord with the new EOUST policy. It states, in Section 3 on Administrative Fees, as follows: "The Chapter 13 Trustee will be paid up to 10% on all funds disbursed." The group unanimously supported amending paragraph 3a of the form plan to read: "The Chapter 13 Trustee will be paid a floating percentage fee pursuant to 28 U.S.C. § 586 (e) from payments the trustee receives." [Note: The Chapter 13 Trustees subsequently proposed to change paragraph 3a of the Form Chapter 13 Plan to read: "The Chapter 13 Trustee will be paid a floating percentage fee pursuant to 28 U.S.C. § 586(e)." This change would account for the fact that the Trustee receives some payments on which no fee will be taken, such as refunds of overpayments once the case has completed.]

Next, the committee discussed how to deal with plans that have already been confirmed with the existing "on disbursements" language in paragraph 3a. The chapter 13 trustees proposed a notice to debtors and debtors' attorneys to notify them of the change in EOUST policy. After considerable discussion, it was decided this is not a substantive change in confirmed plans because no one is negatively impacted by the change. Laurie Williams emphasized that, when this new policy is put into effect, debtors will still pay the same amount of money and creditors will still receive the same amount of money. Nevertheless, the group suggested the chapter 13 trustees post a notice of the revised policy on the their payment website and provide an explanation of the change and include an explanation in the next interim report or any other regularly mailed information they send to the debtors (annually or semi-annually) even if the next report is not mailed until after the change becomes effective. It was also suggested that the chapter 13 trustees should present the information to debtors' attorneys via local bankruptcy bar groups.

The third facet of the anticipated change deals with unconfirmed plans that are dismissed or converted prior to confirmation. In those cases, trustee fees will be assessed upon receipt, whatever their source [e.g., debtor payments or receipts such as a tax refund], and any refunds to debtors will be reduced by the floating percentage fee. The chapter 13 trustees proposed filing a notice in every unconfirmed case pending as of September 30, which notice will outline the fee assessment changes.

It was also noted that D. Kan. LBR 3015(b).1(g)(2)(ii) [Chapter 13 Plan and Pre-Confirmation Adequate Protection Payments] refers to trustee fees being paid on distributions. As a result, the committee thought it appropriate to systematically review all the local rules and standing orders to insure consistency with this proposed change in the plan required by the UST fee policy. As a result, a subcommittee consisting of Laurie, Emily, Joyce, and David Lund agreed to do that comprehensive review of all local rules and standing orders to determine if anything else needs to be changed to conform to the new policy.

Given that we need to amend the form Chapter 13 Plan to accommodate the change in paragraph 3a, the committee discussed whether it should do a top to bottom assessment of the existing form plan to determine if any additional changes are desired by the bench or bar. The form plan has been in use for several years, and some noted that there are parts of the national form plan that may be worded better than our plan, which we may wish to adopt. The national plan is also nicely formatted, which formatting might be added to any revision of our existing form plan. Finally, the trustees and attorneys who have been using this plan have likely identified language, over time, that could use tweaking. As a result, a sub-committee consisting of Laurie, Jill, Justin, and Emily was appointed to review any other possible modifications to the Kansas form plan. Laurie agreed to chair the sub-committee. Judge Karlin proposed this subcommittee post an announcement to the bk-listserv announcing the creation of the subcommittee and soliciting input from the bar. It was also suggested that the cutoff for solicitation of language changes be kept relatively short to ensure that the subcommittee can complete its work and report back to the full committee within a couple of months. That would allow any suggested revisions to be reviewed by the judges, and then if approved, made available for public comment, which we typically request in the November/December time frame. Using this timetable would allow a form plan to be part of the new rules that appear in or around March 17 of each year.

Report on National Rules Committee

Jill reported that there are two major rule-related initiatives at the federal level. First is a forms modernization program, which will revise national forms. The second major initiative is the development and implementation of a nationwide form plan. Currently, there is a segment of the creditor community who insist that the form plan and the related federal rule changes be enacted simultaneously. Because the rule-making process takes two years and the form revision process only takes one year, the earliest the proposed plan would become effective is December 2016.

Jill reported that December 1, 2014 form changes include all of the B-22 forms, including a “short-form” for below median debtors. In addition, the forms and

rules pertaining to appeals will be changing December 1.

All petition and schedule forms will be updated similar to the current schedules I and J. The new forms will be generally longer than current forms. All captions will change. Separate forms will be designed for individual and non-individual debtors. These form modifications are scheduled to go into effect December 1, 2015, but may be delayed to coincide with the availability of "data scraping" features in NextGen (the judiciary's CM/ECF replacement system).

Jill noted that because of an unprecedented volume of comments, the Rules Committee will "re-publish" the proposed Chapter 13 form plan and related rules. She encouraged attorneys who submitted comments on the earlier draft to submit new comments on the revisions. The new related rules will permit lien avoidance, lien stripping, and require the use of the official form.

Finally, Jill shared the new composition of the Rules Committee. The Hon. Sandra Ikuta becomes the new chair of the committee on October 1, 2014. A number of new members will also take office at that time.

Appellate Rules

Judge Karlin shared that fairly extensive changes to the Federal Rules of Appellate Procedure will likely become effective December 1, 2014. She is chairing a committee that is revising the local rules for the Tenth Circuit Bankruptcy Appellate Panel (BAP) to conform to the national rules. What is currently D. Kan. LBR 8006.1 will likely be re-numbered to D. Kan. LBR 8009.1. She also indicated the D. Kan. Rule 83.8.10 may need to be revised as it pertains to bankruptcy appeals. She indicated that this committee will need to recommend whether the judges adopt a standing order to implement the changes, or merely allow the revisions to become effective at the normal March effective date.

Stern II

Executive Benefits Insurance Agency v. Arkison (Trustee of Estate of Bellingham Insurance Agency)

Eric shared some details of one of his cases that involved some considerations that *Bellingham* failed to address. In his case, the deadline to object to Proposed Findings of Fact and Conclusions of Law (Fed. R. Bankr. P. 9033) was problematic because the underlying decision did not indicate whether the order was meant to be a final order or proposed findings of fact and conclusions of law. Although his client intends to appeal to the BAP, he was concerned the BAP might not have jurisdiction (and in no event could it deem the order as merely findings of fact, as the BAP is also made up of Article I judges). After a brief discussion, it was decided that it

would probably be premature to attempt a rule-based solution to his client's issues.

D. Kan. LBR 7041.1

A practitioner from the Kansas City area proposed modification of the LBR 7041.1 (Dismissal of Bankruptcy Code § 727 Complaints Objecting to Discharge) to broaden paragraph (a) to include references to ". . . any motion*, notice, or stipulation* to dismiss . . . ." The present language, which requires that parties seeking dismissal of a 727 complaint file an affidavit that no consideration was promised or given to effect the withdrawal of a 727 complaint, requires a motion. After a brief discussion, the group concluded that Fed. R. Bankr. P. 7041 requires an order of the court, and thus the filing of a notice or stipulation, which do not contemplate receipt of a court order, would not meet that rule's requirements.

D. Kan. Bk. S.O. 08-4

Jill suggested adding a requirement to a notice provision contained in D. Kan. Bk. S.O. 08-4(b)(5). That subsection requires a mortgage creditor to notify the debtor (and counsel) by letter if it believes the debtor is in default, before moving for relief from stay. Jill requests this be changed to also require email notice to any counsel of record because of the delays in surface mailing. But Committee members noted that a number of other rules and Standing Orders reference D. Kan. Bk. S.O. 08-4 and so while the group did not necessarily disagree with Jill's recommendation, there was concern that by revising (and thus renumbering) that Standing Order to make that small change, a number of additional modifications would be required in other rules or standing orders. Jill agreed to review all other rules or orders that reference D. Kan. Bk. S.O. 08-4 so we can better assess the impact of her recommendation.

Recognition of Outgoing Members

On behalf of all four bankruptcy judges, Judge Karlin thanked the committee members whose terms are ending, and presented each with a certificate of appreciation.

The meeting was adjourned at 1:12 p.m.

Minutes of the Bench Bar Committee
Topeka Courtroom 210
November 12, 2013

Members Present: Emily B. Metzger, Chair
Hon. Janice M. Karlin, Judges Representative
Gary E. Hinck
Wendee Elliott-Clement (new member July 1, 2013)
David G. Arst
Paul D. Post
Laurie B. Williams, Chapter 13 Trustee
Dana M. Milby
Eric L. Johnson
Robert L. Baer, Chapter 7 Trustee

Court Staff Present: David Zimmerman, Clerk
Hugh Zavadil, Chief Deputy Clerk

Members Absent: Joyce Owen, US Trustee Representative

Emily Metzger called the meeting to order at 10:00 a.m. Judge Karlin introduced the new Clerk of the Bankruptcy Court, David Zimmerman. She noted that the Minutes from the previous meeting had been approved via e-mail. She also provided a brief overview of the agenda.

Changes to D. Kan. Rules

Judge Karlin provided a brief overview of the pending rule changes to the U.S. District Courts Local Rules. She also noted that the other judges had been unanimous in wanting feedback from the Bench-Bar Committee regarding the impact of these rule changes. The following is a summary of the discussion.

D. Kan. Rule 7.1–new (f) Motions in Civil Cases

Prescribes how to bring "pertinent and significant authorities" to the court's attention post- briefing or oral argument. The members discussed that it would seem a party would always want to, and always should, bring "pertinent and significant authorities" to the attention of the court, instead of "may," but no one proposed that we should offer anything different in the bankruptcy section of the rules.

D. Kan. Rule 16.2 Pretrial Conferences

Provides for a more streamlined, or at least more tailored, pre-trial process. The U.S. District Court also revised its Pre-Trial Order form. It is still much more detailed/lengthy than the Bankruptcy Court's approved Pretrial Order form.

D. Kan. Rule 26.1 Completion Time for Discovery

This Rule, which required parties to "complete discovery within 4 months after the case

becomes at issue" or "within 4 months after the court issues its Rule 16(b) scheduling order" has been abolished by the District Court. There was considerable discussion about whether the lawyers on the Bench Bar Committee believed that 4 months was, in fact, an appropriate guideline for most adversaries or contested matters. It was generally agreed that 4 months is adequate time for most cases, and the members acknowledged that the courts were good about extending that time if the parties explained why more time was needed in the Report of Parties' Planning Meeting. Ultimately, the Committee agreed we should keep, unrevised, our own D. Kan. LBR 7026.1(b), which preserves this 4-month guideline for practitioners in the Bankruptcy Court.

D. Kan. Rule 56.1–new (f) Summary Judgment Motions
This new subsection requires any represented party seeking summary judgment to separately serve and file a form notice on an unrepresented party advising them, of the duties they have and the consequences they may suffer, for ignoring a summary judgment motion. Judge Karlin indicated she would enforce this rule in her cases.
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D. Kan. Rule 83.1.1 Amendment of Rules
This changes the location of the notice for proposed adoption of amendments to the rules from the *Journal* of the Kansas Bar Association to the court's own web site. After discussion, it was agreed that we should not make any change in this for bankruptcy rule changes, as this is a better place to publish this for several reasons.

D. Kan. Rule 83.5.3(e) and (f)
The change in these two subsections is to allow for payment from the Bar Registry funds for out of pocket expenses that have not been recovered (as opposed to a much larger "recoverable" standard) by appointed counsel. A new subsection (f)(6) requires reimbursement to the Fund if money is later recovered. Since we do not have appointed counsel in bankruptcy cases, this should not have any impact on our practice.

New D. Kan. Rule 83.5.8 Limited Scope Representation in Civil Cases
This allows a lawyer to limit the scope of representation "if the limitation is reasonable under the circumstances and the client gives informed consent in writing," requiring compliance with Kansas S.Ct. Rule 115A (noting that 115A(c), which appears to allow ghost-writing, does not apply in our District). Subsection (b) says "The Bankruptcy Court may have additional Local Rules that govern its limited scope of practice."

The group discussed the American Bankruptcy Institute's Best Practices for Limited Services Representation [which suggests this should only apply in Chapter 7 cases], as well as numerous facets of the proposed U.S. District Court Rule. After considerable discussion, Emily Metzger, David Arst, Wendee Elliott-Clement and Dana Milby were appointed to a sub-committee to draft a proposed rule to address Bankruptcy Court concerns pertaining to limited scope representation. It was suggested that the proposed rule could be initally adopted by a Standing Order. The group spent a great deal of time discussing what was considered to be "core duties" of all Chapter 7 counsel, and Judge Karlin emphasized that the judges have been very reluctant to allow attorneys to "unbundle" core services (such as reaffirmation agreements, etc.).

D. Kan. LBR 4002.3-related Form Revision

Emily asked the CM/ECF system-generated Order To Debtor-In-Possession Respecting Report and Payment of Federal Taxes be updated to reflect the current address for filing Federal Income Tax Returns. That address is:

Internal Revenue Service
ATTN Insolvency/Advisory
2850 NE Independence Ave
Stop 5334 LSM
Lees Summit MO 64064-2327

Hugh agreed to amend the system-generated order [and has done so since the date of the meeting].

National Form Plan Update

Laurie Williams briefly discussed the National Form Plan and related Federal Rule changes. Those Rule changes are necessary to implement the Form Plan and are currently available for public comment through February of 2014. The Form Plan and the proposed Rules can be found at the link below. Members of the Bar are encouraged to review the proposed changes and submit comments on or before February 15, 2014. Judge Karlin had recently met with Judge Wedoff, chair of the committee proposing the plan, and he indicated that although they will review every comment, those areas receiving more numerous comments will likely get even closer scrutiny. Here is the link to where you make comments, and you can view the comments already made before submission.
http://www.uscourts.gov/RulesAndPolicies/rules/proposed-amendments.aspx

Notice of Fees Under Fed. R. Bankr. P. 3002.1

Wendee Elliott-Clement noted that creditors are sometimes very nervous about Fed. R. Bankr. P. 3002.1 (which requires notice of payment changes, fees, expenses, charges, etc.) and often err on the side of caution and file Notices of Fees in cases where the home mortgage is being paid outside the Chapter 13 Plan. Since the plan does not provide for the Chapter 13 Trustee to pay the home mortgage, some of the Trustees object to the Notice just so everyone (especially the Debtor and counsel) will know that the Trustee is not going to pay any claim. Wendee Elliott-Clement will draft a proposed local rule to address this situation for the group's consideration. She will also work with Laurie to ensure that the proposed local rule addresses the concerns of the Chapter 13 Trustees.

Proposed Amendment to the Appendix to D. Kan. LBR 5005.1

Hugh proposed, on behalf of the Clerk's Office, a minor amendment to the Appendix to D. Kan. LBR 5505.1. The purpose is to permit implementation of the revisions to Fed. R. Bankr. P. 1007 which take effect December 1, 2013. Emily moved and Gary seconded a motion to recommend the change. The motion was passed unanimously.

New Fee for Motions to Sell Free and Clear

Judge Karlin briefly explained that a new Miscellaneous Fee will become effective December 1, 2013. This fee is for motions to sell property free and clear of liens under 11

U.S.C. § 363(f). There is no provision to defer or waive this fee (as there is for adversary proceedings for trustees, for example).

CM/ECF Addresses

Emily explained that there was a recent thread on the bk-listserv regarding preferred address substitution for creditors. Hugh explained that under 11 U.S.C. 342(f) creditors can file a preferred address. The preferred address can apply nation-wide, to a particular district, or even to a particular case. In the District of Kansas these preferred addresses are filed in the National Creditor Registration Service (N.C.R.S.) pursuant to D. Kan. LBR 2002.1(d). Hugh also pointed out that data from the court's CM/ECF system is analyzed, substituted where appropriate, and merged in real-time with data from N.C.R.S. to direct notices queued to the BNC to a creditor's "preferred" address. He also noted that the PACER Creditor List report (Reports>Creditor List from the CM/ECF main menu) also does an on-line real time merge of the two systems' data to produce a printable matrix with substituted "preferred" addresses. So contrary to the suggestion in the listserve, the Kansas bankruptcy court does not have a list of "secret" addresses, does not maintain that list, and that list (where it does exist) could literally change every day since creditors can change the address they wish to use whenever they wish.

The meeting was adjourned at 12:57 p.m.

Minutes of the Bench Bar Committee
Topeka Courtroom 210
May 20, 2013

Members Present:	Hon. Janice M. Karlin, Judges Representative Joyce Owens, US Trustee Representative by telephone Gary E. Hinck Wendee Elliott-Clement (new member July 1, 2013) David P. Eron Paul D. Post Jan Hamilton Dana M. Milby Eric L. Johnson
Court Staff Present:	Ja`net Miles, Judicial Intern Hugh Zavadil, Acting Clerk
Members Absent:	Emily B. Metzger Lee W. Hendricks Robert L. Baer, Chapter 7 Trustee

Judge Karlin called the meeting to order at 10:00 a.m. Judge Karlin announced that committee chair, Emily Metzger was ill and unable to attend the meeting. Judge Karlin also noted that Lee Hendricks, an out-going member of the committee, was unable to attend.

Judge Karlin introduced Wendee Elliott-Clement as a new member of the committee, Ja'net Miles, Judicial Intern, and announced that David Arst and Laurie Williams were also recently appointed to the group. She also presented Dave Eron and Jan Hamilton with Certificates of Appreciation for their service on the committee.

Courthouse Attire

Judge Nugent asked to have the committee discuss whether action should be taken to upgrade the formality of attorney attire, specifically at 341 meetings. He had received a complaint from a trustee about some attorneys appearing in less than professional attire, including at least one attorney who appeared wearing jeans and a t-shirt. After discussion, it was the consensus of the committee that these minutes should reflect that because 341 meetings are court business, the judges do expect some level of professional attire at those sessions.

***Stern v. Marshall* Issues**

Judge Karlin next introduced a discussion of pending Federal Rules changes pertaining to issues governed by *Stern v. Marshall.* Judge Karlin indicated that the judges are considering

adopting a Standing Order to sooner adopt the proposed revisions to Fed. R. Bankr. P. 9033.[1] After a lengthy discussion, the committee also unanimously recommend adopting a Standing Order to adopt the proposed amendments to Fed. R. Bankr. P. 7012(b), 7008 and 7016 before those rules would become effective through the national rules adoption process. [Judge Karlin has advised that at the time of the drafting of these minutes, the Judges have met and have decided to only adopt by standing order (at this time) the revisions to Rule 9033. This is due to some minor concerns about the federal rule making/comment process, coupled with the admitted rarity of the "core but no authority to enter final order" scenario to which these rules amendments are aimed].

Limited Scope Representation

The U.S. District Court is considering revisions to enable limited scope representation. A number of concerns and reservations were expressed about the concept of limited scope representation in bankruptcy cases. Judge Karlin noted the proposed provisions dealing with "ghostwriting." No position was recommended on this issue.

D. Kansas Chapter 13 Form Plan

Judge Karlin asked the group to consider whether any portions of the nation-wide form plan should be adopted and incorporated into our local Chapter 13 Plan. After an extended discussion, the consensus of the group was to leave the local form plan unchanged.

Judicial Branch Budget Issues

Judge Karlin discussed the general nature of the budget issues facing the Federal Judiciary in upcoming years. She noted that budget issues will likely impact the level of service provided by the Clerks' offices and may impact the way the Court directs noticing. She explained the recent Judicial Conference initiatives relative to Shared Administrative Services. Various committee members offered a number of possible cost-saving measures, including:

- Issuing an Order to Show Cause instead of a Notice of Order Due
- Letting Motions languish if Orders are not timely filed
- Requiring Proposed Orders to be submitted with Motions
- Simply deny Motions for which Orders aren't timely uploaded
- Stop Issuing Orders to Correct

BNC Noticing Review

Judge Karlin gave a brief overview of the 2011 Noticing Review. This is a district-by-district summary of the mailing costs per case for which the judiciary budget is responsible. Our Clerk's office, in comparison with almost every other district, pays for more noticing than a

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[1] The language of the 9033 standing order is likely to be as follows: In all proceedings in which the bankruptcy court has determined that it may not enter final orders or judgments without consent of the parties, and all parties have not consented, Federal Rule of Bankruptcy Procedure 9033 shall apply. The bankruptcy court shall file proposed findings of fact and conclusions of law, and Federal Rule of Bankruptcy Procedure 9033 shall apply to review of those findings and conclusions.

majority of other districts. Other districts tend to require the parties—debtors, creditors, trustees—to be responsible for the cost of many more mailings, thus reducing the mailing costs to the judiciary. After a brief discussion it was decided that the Clerk's Office should update the prior Noticing Review and seek guidance from the Bench-Bar Committee if any particular issues are identified.

D. Kan. LBR 6007.1

Eric Johnson led the discussion. Chapter 7 Trustee Eric Rajala had contacted him to bring to the committee's attention the recent 10th Circuit decision in *Cook v. Wells Fargo*, 2013 WL 1297590 (April 2, 2013) (10th Cir. 2013). That decision can be read to suggest our LBR 6007.1 procedure to allow Chapter 7 Trustees to abandon assets pursuant to 11 U.S.C. § 554 is inadequate. *Cook* requires courts more expressly set the deadline for objecting to any notice of intent to abandon, and that courts allow a hearing once an objection is filed. Although we had a notice at the bottom of the back page of our B9A Notice of Meeting of Creditors form that discussed Rule 6007.1, and although the Court's practice is to set a hearing, we were concerned that might not be enough under *Cook.* After a brief discussion, Eric moved and David seconded that we adopt the proposed modifications to D. Kan. LBR 6007.1.[2] The motion passed unanimously. [The judges do not intend to adopt a standing order on this, but will instead allow for the general notice and comment period. The revisions will thus likely become effective in March 2014. Because the current practice is to allow a hearing, and because we have now amended our B9A form [Notice of Chapter 7 Bankruptcy Case, Meeting of Creditors, & Deadlines], the judges did not believe the earlier adoption by standing order was necessary].

ePOC Demonstration

Hugh demonstrated the Electronic Proof of Claim (ePOC) software developed by the Middle District of North Carolina. The group expressed concern that the system, which does not require user authentication, would permit debtors to surreptitiously amend claims filed by

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[2] D. Kan. LBR Rule 6007.1 would now look like this:

a. Deadline for Objecting to Abandonment. When the clerk of the court provides the Notice of Bankruptcy Case, Meeting of Creditors and Deadlines, the Notice must contain a provision that within 60 days from the conclusion of the meeting of creditors held under 11 U.S.C. § 341, the Chapter 7 trustee may file notice of intended abandonment of any or all of the debtor's property in the estate as authorized by 11 U.S.C. § 554 without further service on creditors or interested parties. Unless a creditor or interested party objects to abandonment within 75 days after the conclusion of the meeting of creditors, the property subject to the intended abandonment will be deemed abandoned without further notice or order of the court.

b. Procedure if timely objection. If a creditor or party in interest timely objects, the court will schedule a hearing. The property that is the subject of the objection to the intended abandonment will not be deemed abandoned until the objection is resolved by court order. All other property subject to the intended abandonment, however, will be deemed abandoned without further notice or court order.

creditors. Hugh agreed to do some further investigation about the system to see if these issues might be addressed.

The meeting was adjourned at 1:51 p.m.

Minutes of the Bench Bar Committee
Topeka Courtroom 210
September 24, 2012

Members Present: Emily B. Metzger, Committee Chair
Hon. Janice M. Karlin, Judges Representative
Lee W. Hendricks
Jay D. Befort, US Trustee Representative
Gary E. Hinck
Robert L. Baer, Chapter 7 Trustee
David P. Eron
Paul D. Post
Jan Hamilton
Dana M. Milby
Eric L. Johnson

Court Staff Present: Hugh Zavadil, Clerk's Representative

The meeting was called to order at 10:10 a.m. Emily Metzger welcomed the Committee. Emily explained that the minutes from the March 21, 2012 had been approved via electronic mail. New members of the Committee were welcomed and introduced.

Agenda Items

1. A draft revision to D. Kan. LBR 7054.1 had been previously circulated via email for comment. The Committee voted unanimously to recommend adoption of the proposed revision, which eliminates subsection (c) of the Rule.

2. The group considered a series of proposed revisions to the Chapter 13 Form Plan. The first proposal[1] dealt with post-confirmation foreclosures. Paul Post noted that currently debtor's counsel must file a Motion to Modify the Plan (to clarify that the deficiency, if any, should be discharged) when real property surrendered pursuant to the plan is foreclosed (See Form Plan ¶ 8). Jan Hamilton noted some of the competing interests that drive this proposal. After an extended discussion, it was decided that this situation would

[1] "If during the pendency of this case, a mortgage loan holder obtains relief from stay and forecloses its mortgage loan on the collateral resulting in sale of the collateral at sheriff's sale, any remaining debt owed on such mortgage loan will be treated as general, unsecured debt and discharged upon completion of the case." OR "If during the pendency of this case, the holder of a secured claim obtains relief from stay and forecloses its lien on the collateral resulting in sale of the collateral, any remaining debt owed on such claim will be treated as general, unsecured claim and discharged upon completion of this case. In order to participate in any distribution to unsecured creditors, the holder of the claim must amend its claim within __ days of the sale of collateral."

be better addressed in a modified plan (and/or in the language of any Order Granting Stay Relief), and the proposed language was not adopted.

3. Next, Paul introduced a discussion to amend paragraph 3(b) of the form plan to include explicit designation of case closing fees. This is to clarify, especially in cases where a debtor has paid counsel all fees up front, that the attorney has already been paid for end of case work. The proposal received unanimous support; it only adds one line to the plan. Hugh was directed to make the change to the form plan documents and to draft a Standing Order to adopt the revisions.

4. The next proposed revision to the Form Plan would strip the lien of any creditor who refuses to take property abandoned by the Plan.[2] The consensus of the group was that such a provision would not conform to existing case law, and that it is not provided by the Code.

5. Three different revisions to paragraph 8 were discussed.[3] After extended discussion, the following redline language was adopted, and the other changes were rejected:

RELIEF FROM STAY REGARDING PROPERTY TO BE SURRENDERED: On Plan confirmation, any creditor may repossess, foreclose upon, sell or obtain possession of the property the Plan proposes to surrender without obtaining stay relief. This provision does not prevent the earlier termination of the stay under operation of law or court order. Nothing contained in this section operates to permit *in personam* relief, modify any applicable co-Debtor stay or to abrogate Debtor's rights and remedies under non-bankruptcy law. The trustee shall not make distributions on account of any secured claim in this class.

New Business/Non-Agenda Discussions

6. After a brief discussion of Employer Pay Orders, Judge Karlin suggested that anyone having problems should collect several examples, send them to the Divisional Deputy In

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[2] "Any secured creditor listed who does not retrieve property to be surrendered under the plan within ninety (90) days after confirmation, creditor will be deemed to have abandoned their lien to the property and the confirmation order will constitute a release of lien. Debtor will be authorized to dispose of the property without further claim of the creditor. "

[3] Three parts were considered: 1) "This provision does not permit in personam relief of any kind against the Debtor; 2) The surrender of assets under this provision shall constitute full satisfaction of the claim secured by such collateral, unless within ___ days after confirmation, the claim holder shall submit a claim for any deficiency balance; and 3) If the holder of a claim secured by property to be surrendered under the plan fails to take possession of its collateral with __ days after confirmation, the claim holder shall be deemed to have abandoned its lien. Debtor may thereafter submit an appropriate order stating that such lien has been abandoned."

Charge of the pertinent Clerk's office, and, if necessary, meet with Clerk's office staff to discuss how to solve whatever problem exists.

7. Jan Hamilton noted that a direct bill payment system for trustee payments is being developed in Topeka.[4] Other Chapter 13 Trustees are considering similar functionality.

8. Judge Karlin discussed the proposed District Court Rule regarding Limited Scope Representation. Judge Berger will serve on a committee to do further work on this proposed rule. Dave Eron volunteered to represent the Bankruptcy Bench Bar committee on that committee.

9. The Topeka docket changes were discussed. It was the consensus that the changes were effectively reducing the length of the dockets.

10. Jan Hamilton requested video evidence presentation demonstrations at each of the respective bar groups. Hugh will try to arrange these sessions. He also noted that anyone wishing to use the video evidence presentation system can call the local Clerk's office to arrange training.

11. Eric Johnson suggested a local rule to handle noticing Rule 2004 Examinations. Judge Karlin suggested that Eric draft a possible revision and circulate it via email. The committee can then vote via email whether to adopt the proposal. To get it in the next edition of the published local rules, it would need to be adopted by November 14, 2012.

12. The conduit payment Standing Order 11-3 was discussed. It is working well. It has forced debtors to address early in the Chapter 13 process whether they can actually afford the house. Despite higher trustee fees, the process does allow debtors to save on late payment fees, etc.

The meeting was adjourned at 11:46 a.m.

[4] After the meeting, Mr. Hamilton supplied the following web address for the bill pay service he is considering: https://www.tfsbillpay.com.

Minutes of the Bench Bar Committee
Topeka Courtroom 210
March 21, 2012

Members Present: Emily B. Metzger, Committee Chair
Hon. Janice M. Karlin, Judges Representative
Hon. Dale L. Somers, Judge
Lee W. Hendricks
Joyce G. Owen, US Trustee Representative
William A. Wells
Linda S. Parks, Chapter 7 Trustee
David P. Eron
Paul D. Post

Court Staff Present: Hugh Zavadil, Clerk's Representative

Members Absent: Jan Hamilton
Dana M. Milby
Gabrielle A. Beam

The meeting was called to order at 10:05 a.m. Emily Metzger welcomed the Committee. Emily explained that the minutes from the June 27, 2011 had been approved via electronic mail. She also noted that there were a couple unresolved issues carried over from the June 27, 2011 meeting.

First, Dave Eron had introduced a discussion regarding panel trustee Motions to Compel. Dave met with Jay Befort of the U.S. Trustee's office and together they concluded that no Local Rule could be crafted that would address the competing interests expressed at the June 27, 2011 Bench-Bar Committee Meeting. Dave also reported on some informal polling among practitioners in the Bankruptcy Bar regarding Withdrawals by Creditors' Counsel. Dave agreed to draft a proposed local rule to be circulated to the committee to see if he could persuade the judges such a rule would be workable.

Agenda Items

1. Judge Karlin explained a situation that has recently arisen in relation to new Fed. R. Bankr. P. 3002.1. The Rule, which became effective December 1, 2011, requires the Chapter 13 Trustee to file a Notice of Final Cure Payment with the Court. It then requires the secured creditor to respond whether the loan is, in fact, current. Sometimes creditors do not respond. Jan Hamilton asked the Court to consider a Rule or Standing Order to address the situation. Instead, the Judges have informally agreed to a procedural change to address the situation. The proposed solution would have the Trustees file a Notice of Final Cure Payment with a Motion to Deem the Mortgage Current if the creditor fails to respond. After a brief discussion the consensus of the group was that the proposed procedural change should satisfactorily address the problem. Judge Karlin will circulate the proposed Notice/Motion once it is final, so the Bench-Bar Committee can review it.
2. Hugh explained proposed revisions to D. Kan. LBR 1007.2. The revisions simply update the Rule to conform to contemporary technology and correct a typographical error in the existing rule. The Committee unanimously approved the proposed revisions. A copy of the revision, which will be recommended to the Judges for approval, is attached to these Minutes. (Note: Click here for a redline/strikethru version of D. Kan., L.B.R. 1007.2)
3. Lee Hendricks indicated he had been asked to again present to the Committee the possibility of developing a "short form" Chapter 13 Form Plan. Although the Committee had fully considered that possibility at the last meeting, the Committee again fully considered that option, and unanimously concluded that the existing Form Plan allows the flexibility to

designate which paragraphs do not apply and that any "short form" would likely result in no significant advantage to the existing Form Plan. The group also noted that the current Form Plan has been and will continue to be reviewed in light of Rule changes and does a good job of balancing the needs of practitioners within the District.

4. On the same topic, Judge Karlin noted that she has begun to see at least one lawyer retype the form plan, eliminating some of the formatting that makes the various sections easy to find, etc., and that she strongly discourages the "retyping" of the form plan.

New Business/Non-Agenda Discussions

First, Judge Karlin asked the Committee's opinion on presumptive attorney fees in Chapter 7 and 13 cases. She wanted to know, at least for the Topeka bar, if the fees she set a few years back are still reasonable in light of the fact the fees were set several years ago. She also asked if any increase in their cost of doing business appears to be recouped by savings in time gained from 6 years' experience practicing under BAPCPA? The consensus of the group is that the presumptive fees as currently established seem reasonable. This is partly based on the fact that if an attorney needs additional fees he/she can file a motion documenting why the standard "no look" fee is not satisfactory.

Judge Karlin also asked the group to comment on the performance (and consistency of operation) of the three divisional office of the Clerk of the Bankruptcy Court. Members of the Committee were unanimous in expressing positive experiences with all three divisional offices.

Next, Judge Karlin asked the group if anyone had concerns related to Stern v Marshall? During the ensuing discussion, Judge Somers noted that these issues are sometimes not raised early enough in the proceeding.

Judge Karlin asked for input on how to structure large Chapter 13 dockets to minimize time for low volume attorneys. Dave Eron mentioned that the same topic had been discussed at a recent Wichita Bankruptcy Council luncheon. At that time it was suggested that the docket be called in reverse order (i.e., newest cases first, oldest cases last). After a brief discussion Judge Karlin decided it might be best to appoint an ad hoc committee consisting of her, Lee Hendricks and Paul Post (as members of the Bench Bar Committee), Jan Hamilton, and possibly one other attorney, to review procedures in Topeka.

Finally, Judge Karlin inquired about the recent pattern of the Internal Revenue Service (IRS) amending claims after the trustee or debtor files an objection to an IRS claim, without responding to the objection, itself. The amended claims are apparently intended to the resolve the matter noted in the objection to claim. She noted this also occurs with KDOR. Emily Metzger observed that the U.S. Attorney's office does not always receive notice of objections to IRS claims; the notices often just go to the Philadelphia site. She also suggested that attorneys need to contact U.S. Attorney Staff so they can work directly with IRS. Emily will also discuss the matter with IRS Regional Counsel.

The meeting was adjourned at 11:45 a.m.

Minutes of the Bench Bar Committee
Topeka Courtroom 210
June 27, 2011

Members Present: Emily B. Metzger, Committee Chair
Hon. Janice M. Karlin, Judges Representative
Hon. Robert E. Nugent, Chief Judge
Hon. Robert D. Berger, Judge
Hon. Dale L. Somers, Judge
Lee Hendricks
Jay Befort, US Trustee Representative
Richard C. Wallace
Larry G. Michel
William Wells
Jan Hamilton
David Eron (telephone attendance)

Guest(s) Present: Laurie Williams, Wichita Chapter 13 Standing Trustee
William Griffin, Kansas City Chapter 13 Standing Trustee
Paul Post, New Member
Robert Baer, Chapter 7 Trustee

Court Staff Present: Hugh Zavadil, Clerk's Representative

Members Absent: Linda Parks, Chapter 7 Trustee
Gabrielle Beam

The meeting was called to order at 10:01 a.m. Emily Metzger welcomed the Committee. After brief introductions, Judge Karlin presented Richard Wallace and Larry Michel, outgoing members of the Committee, Certificates of Appreciation from the judges. Judge Karlin also introduced Paul Post, one of the new members of the Committee.

Agenda Items

1. Dave Eron introduced a discussion regarding panel trustee Motions to Compel. Several different situations were described. First, in Wichita it sometimes occurs that Motions to Compel production are filed prior to any communication with debtor's counsel. Sometimes the Motions to Compel are filed by the trustee after debtor's counsel has contacted the trustee and let him/her know that the materials were being gathered. Finally, some panel trustees are filing Motions to Compel Production far in advance of the actual trigger event (e.g. a Motion to produce tax returns months before the return is due under federal and state taxing laws) and compliance becomes problematic for debtors' counsel. Mr. Eron suggested that the Committee should consider recommending a Local Rule that would require panel trustees to "meet and confer" prior to filing these Motions to Compel.

Robert Baer appeared on behalf of the Chapter 7 panel trustees. He argued that the rule revision recommended by Eron was unnecessary. He also suggested that the proposed rule would be inconsistent with other requirements. He suggested that such a rule would unnecessarily delay discharges and case closings. Requests for information are often not met, even after informal attempts (at the 341 and afterwards) to obtain the information. Most trustees contact debtor's counsel either orally or in writing to request items before Motions to Compel are filed. Finally, much of the information sought via these Motions to Compel is required to be produced by the debtor under the Code, and oftentimes very early in the case. Given time constraints, the Chapter 7 panel trustee has little flexibility in the matter. If administration is to be completed in a timely fashion, documents must be produced in a timely fashion.

After considerable discussion, Emily suggested that David Eron, if he desires further committee consideration of this issue, draft a concrete proposal for the Committee's consideration. Emily requested that Jay Befort, and any Trustees he deems appropriate, be consulted in the process. Emily also said that she would be happy to work with David and Jay on this, if requested.

2. Dave Eron introduced a general discussion regarding the rules pertaining to Withdrawals by Creditors' Counsel. Dave argued that the current rules impose a difficult burden on those attorneys who represent creditors for a single, relatively simple matter in a case, who then wish to stop receiving notices in that case once that single matter is resolved. After a brief discussion, it was decided that Judge Karlin would contact the Bankruptcy Judges listserv to see how other jurisdictions handle the

issue. Judge Karlin will report back regarding the inquiry. Dave agreed to draft a proposed local rule to be circulated to the committee after receiving input from other bankruptcy judges. (Note: After a full discussion, the judges of this Court have decided not to ask the District Court for an exception to its D. Kan. LBR 83.5.5 for creditors' counsel. This is, of course, without prejudice to anyone raising this issue in the future for additional consideration.)

3. Dave Eron introduced the issue of signature requirements on electronically filed documents. He noted that there are some wide variations in what attorneys collect and preserve to comply with signature requirements in Local Rules. Judge Nugent noted that Local Rules require attorneys to maintain a paper copy of the (originally signed) petition and schedules. This requirement exists for evidentiary purposes in case the originals are needed for a fraud or perjury prosecution. As to retention of proof that an attorney has consented to having his or her /s appended to a pleading, it was noted that a variety of techniques are available. After discussion, the group concluded that no Local Rule revision was necessary to address this situation.

4. Laurie Williams, Jan Hamilton and Bill Griffin attended the meeting to discuss the form Chapter 13 Plan with the group, specifically the plan adopted March 1, 2011 by Standing Order 10-2. Judge Karlin had requested, at the trustee's invitation, that comments be solicited from the bar regarding the form plan, and whether (after operating under the required plan for approximately 4 months) changes were needed. Speaking for the Chapter 13 Trustees, Laurie indicated the trustees recommended only minor revisions to the plan (or, "we stand by our plan"), and separately addressed each inquiry or comment made to the existing plan. Many of the issues identified by the Bar are training issues. Laurie indicated that in her experience, there have been fewer objections to confirmation because of implementation of the form Plan. Jan noted that his staff appreciates being able to easily find plan provision provisions.

It was mentioned that when the monthly payments (in paragraph 1) are entered, along with the number of months, the current plan requires multiplying everything and entering the total. It was recommended that the "total" column be configured to do the math for you. All three Chapter 13 Trustees noted that the fields in question were able to accommodate text as well as numbers. Particularly for below median debtors, there are circumstances where attorneys may wish to preface the number of payments with "approximately" or "estimated" (when the exact amount of claims will impact the commitment period). For this reason, all three Chapter 13 Trustees recommended not changing the form Plan to automatically calculate totals.

The committee and the Chapter 13 Trustees reviewed and discussed a number of additional proposed changes to the form Plan. It was decided that Laurie Williams would oversee having the proposed changes made and circulate a copy of the revised form Plan to the Committee for review by the Bench Bar Committee members, and ultimate recommendation to the judges.

5. On December 1, 2011, absent some action by Congress, some new and amended Federal Rules of Bankruptcy Procedure become effective. In a preliminary review of these rules it was noted that there may be some conflicts between the new rules and D. Kan. Bk. S.O. 09-2. A variety of proposed amendments to D. Kan. Bk. S.O. 09-2 were discussed by the group. The Chapter 13 Trustees were asked to prepare a redline/strikethru version of D. Kan. Bk. S.O. 09-2 to highlight proposed changes required by these new and amended rules.

6. The group discussed D. Kan. L.B.R. 9004.1 and the corresponding font size restrictions. After a brief discussion it was moved by Jan Hamilton and seconded by Larry Michels to increase the font size specified in the rule from 10 to 12 points. The motion was passed unanimously. (Note: Click here for a redline/strikethru version of D. Kan., L.B.R. 9004.1)

7. Judge Karlin then explained a recent revision to D. Kan. Rule 54.1(a)(2). The Rule requires the party seeking costs to file a memorandum in support of its costs. After a brief discussion, it was noted that the District Court rule applies to the Bankruptcy Court but that no further clarification was necessary in the Bankruptcy Court local rules.

8. Judge Karlin next explained a situation she has experienced where debtors are seemingly able to financially afford to reaffirm a debt, but counsel refuses to sign the reaffirmation agreement. This requires the court treat debtor as de facto pro se, requiring debtors to appear and the court to give the admonitions typically provided by debtors' counsel. Sometimes, the debtors must travel considerable distances to make the (seemingly unnecessary) appearance. Judge Karlin asked attorney members of the committee about blanket refusals to sign reaffirmation agreements. The group discussed the matter but came to no resolution of the issue.

9. Jay Befort presented a proposed Standing Order regarding payment of bank fees by Chapter 7 trustees. After a brief explanation of the proposed Standing Order (required because banks are now refusing to give interest-free accounts to panel

trustees), the group recommended adoption of the Standing Order. (Note: On June 30, 2011 the judges signed D. Kan. Bk. S.O. 11-1)

10. Hugh noted that the Tenth Circuit has approved the rule revisions from last term.

The meeting was adjourned at 1:52 p.m.

Minutes of the Bench Bar Committee
Topeka Courtroom 210
May 18, 2010

Members Present: Emily B. Metzger, Committee Chair
Hon. Janice M. Karlin, Judges Representative
Tom Barnes
Joyce Owen, US Trustee Representative
Chelsea Herring
Larry Michel

Guest(s) Present: Chris Micale, Attorney for the Wichita Chapter 13 Standing Trustee

Court Staff Present: Hugh Zavadil, Clerk's Representative

Members Absent: Edward Nazar
Jay Befort
Lisa Epp
Richard Wallace
William Griffin, Chapter 13 Representative

The meeting was called to order at 10:09 a.m. Emily Metzger welcomed the committee. She explained that the draft Chapter 13 Plan Form had been prepared by the three Chapter 13 Standing Trustees. A sub-committee of the Bench-Bar Committee, consisting of Emily Metzger, Tom Barnes, Chelsea Herring, and Laurie Williams (representing the trustees), then reviewed the proposed plan and made further suggestions for revision.

Form Plan

Chris Micale, staff attorney in Laurie Williams' office, provided the review of each discrete provision of the draft Plan. He noted that generally, the Form Plan is somewhat longer than some attorney-drafted Plans, but that Wichita's experience is that attorneys quickly become familiar with the Plan and that the form Plan is specifically designed to "head off" common problems. By "heading off" these problems, it is hoped that the need to file amended Plans will be minimized.

The proposed Form Plan consists of the following sections:

- Plan Terms,
- Effect of Confirmation,
- Applicable Commitment Period,
- Administrative Fees,
- Filing Fees,
- Tax Returns,
- Domestic Support Obligations (DSO),
- Priority Claims,
- Property to be Surrendered,
- Real Estate Mortgages under D. Kan. S.O. 09-2,
- Real Estate Mortgages outside D. Kan. S.O. 09-2,
- Secured Creditors Other Than Debts Secured by Real Estate,
- Lien Avoidances,
- Student Loan Obligations,
- Executory Contracts and Unexpired Leases,
- "Best Interests of Creditor Test,"
- Property of the Estate, and,
- Other General Plan Provisions

The BB Committee reviewed each provision in the proposed Form Plan. A number of suggestions were made and incorporated into the draft. Click here to see a pdf document containing the text of the draft Form Plan containing amendments proposed by the Bench-Bar Committee.

Judge Karlin asked that the proposed Plan, as revised, be circulated to the Committee for a final review. After review and

approval by the Bench-Bar Committee, the proposed Plan will be routed to the judges for discussion.

Chris noted that there are some technical issues with how the Plan is to be released. Currently, the proposed Plan is in Microsoft Word format, and he expressed concern that not everyone has access to Microsoft Word. A pdf form might also be created, but pdf- fillable forms also have some technical issues. Judge Karlin volunteered to have the Court's technical staff assist in preparation of the document in final form.

UST Proposal regarding conversions resulting from 707(b) objections

Joyce Owen presented a proposal from the U.S. Trustee's office. The UST's office files motions to dismiss under 11 U.S.C. 707(b), which often result in the debtor's voluntary agreement to convert the case to a Chapter 13 or sometimes a Chapter 11. Most or all of the judges have required that rather than an agreed order linked to the UST's motion, that the debtor be required to file and notice a separate motion to convert. The purpose for this procedure is in deference to the *Marrama*1 decision, because parties in interest should have the opportunity to oppose conversion for bad faith or other reasons.

Joyce noted that if an agreement to convert is reached before one docket, it often takes more than a month for debtor's counsel to file the required motion for conversion and for the objection deadline to run. During that time, her office may have to make appearances in KC or Topeka on the underlying § 707(b) motion, or arrange for additional continuances until the conversion is completed. This process takes longer than it would for the U.S. Trustee to submit an agreed order of conversion based upon the original 707(b) motion. Judge Karlin suggested that if a debtor or debtor's counsel agrees to a conversion, that the U.S. Trustee prepare an order that agrees to the dismissal unless the motion to convert is filed and properly noticed within a specified time period. This resolution would keep the case moving and provide the necessary notice to creditors required by the Court, and it is doubtful the judges would require an appearance by the UST during that notice period.

Certificates of Appreciation to outgoing Committee members and Introduction of new members

Judge Karlin presented Certificates of Appreciation to Chelsea Herring and Tom Barnes for their service on the Bench-Bar Committee, and will mail the certificates to Edward Nazar, Lisa Epps, William Griffin and Richard Wallace. Judge Karlin also announced the new appointments to the Committee. The Chapter 13 Trustee representative will be Jan Hamilton. The Chapter 7 Trustee representative will be Linda Parks. Attorneys selected to fill three-year terms were David Eron and Lee Hendricks, while Gabrielle Beam and William Wells were each selected to fill two-year terms. The new appointments are effective July 1, 2010.

The meeting concluded at 12:50 p.m.

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1 *Marrama v. Citizens Bank*, 549 U.S. 365 (2007).

Minutes of the Bench Bar Committee
Topeka Courtroom 210
October 1, 2009

Members Present: Emily B. Metzger, Committee Chair
Hon. Janice M. Karlin, Judges' Representative
Jay Befort
Joyce Owen, US Trustee Representative
Lisa Epps
Tom Barnes
Larry Michel
William Griffin, Chapter 13 Representative

Guest(s) Present: Hon. Dale L. Somers, Judge

Court Staff Present: Hugh Zavadil, Clerk's Representative

Members Absent: Chelsea Herring
Richard Wallace

The meeting was called to order at 10:08 a.m. Emily Metzger welcomed the committee. Emily noted that the minutes from the previous meeting, held June 5, 2009, had been circulated and approved via electronic mail.

Stylistic and substantive revisions to D. Kan. LBRs

The first order of business was review of the proposed stylistic revisions of the Local Rules. Judge Karlin noted that the U.S. District Court has now adopted the proposed stylistic revisions for their Local Rules, and the revisions will appear in the March 2010 edition.

Emily observed that during the stylistic review a number of substantive issues were identified. Judge Karlin asked that the group reconsider proposed amendments to D. Kan. Bk. S.O. 08-4 and D. Kan. Bk. S.O. 09-2. At the last meeting, the committee adopted revisions to all local rules and all Standing Orders to bring them into compliance with revisions to the Federal Rules of Bankruptcy Procedure that will become effective December 1, 2009 (dealing with calculating time in 7 day increments). Because it appears that these Standing Orders will need to be modified in the near future for other reasons, Emily and Judge Karlin recommend we not make changes in those rules at this point because practitioners are very familiar with those S.O. numbers, and have incorporated those numbers into many forms. As such, Judge Karlin suggested that the Court not change these Standing Orders to adopt deadline-related changes until we adopt either substantively revised Standing Orders or until the substance of these Standing Orders is incorporated into Local Rule.

Judge Karlin outlined some of the more salient substantive changes, a summary of which was contained in her September 18, 2009 memorandum to the committee. She discussed recommended changes to D. Kan. L.B.R. 4002.1. It currently does not require debtor(s) to file and provide copies of unfiled tax returns from years before the most current year before the filing. After a brief discussion, Tom Barnes moved and Bill Griffin seconded, that the proposed amendment be adopted. The Committee unanimously approved the recommendation.

Next, Judge Karlin introduced discussions concerning proposed amendments to D. Kan. L.B.R. 7026.1. The current version D. Kan. L.B.R. 7026.1 does not contain reference to the procedure used when attempting to quash a subpoena, as does the D. Kan. Rule. It also requires portions of deposition transcript to be used at trial to be filed on the date of trial. The proposed revision adds "or earlier if required by court order," because most pretrial orders require listing of all exhibits and our trial notice requires exchanging copies of exhibits in advance of trial. After a discussion, Jay Befort moved, and Larry Michel seconded that the proposed amendments be adopted. Again, the Committee unanimously approved the recommendation.

Judge Karlin also suggested that D. Kan. L.B.R. 7056.1 and D. Kan. L.B.R. 7012.1, dealing with summary judgment motions and motions to dismiss, respectively, should be revised not only to change the response dates in accordance with the December 1 time changes, but to reduce the reply brief from 23 to 14 days. This revision will ensure consistency with the U.S. District Court rule. Lisa Epps moved and Larry Michel seconded that the proposed amendments be adopted. Again, the Committee unanimously approved the recommendation. The Committee also directed Hugh to include these deadline changes in the Interim Local Rules, which will be published prior to December 1.

Next, Judge Karlin recommended that D. Kan. L.B.R. 9011.4 be revised to include reference to Western District of Missouri

reciprocity, which is noted in the D. Kan. Rule on which our rule was based. In addition, D. Kan. L.B.R. 9013.3 did not require unrepresented parties to file a certificate of service when they filed motions or pleadings, and this is situation is corrected by a proposed revision. Further, D. Kan. L.B.R. 9074.1(c) currently requires the Chapter 13 trustee to sign all orders. The proposed amendment would add a sentence to allow an attorney to bring a dispute over an order to the court's attention when the Chapter 13 Trustee declines to sign the order. Another proposed revision adds reference to unrepresented parties in the context of this rule. Lisa Epps moved and Tom Barnes seconded that these proposed amendments be adopted. Again, the Committee unanimously approved the recommendation.

Emily explained minor proposed revisions to D. Kan. L.B.R. 1001.1(d), D. Kan. L.B.R. 1007.1(a)(1)(O), D. Kan. L.B.R. 2090.1(a), and D. Kan. L.B.R. 4001(a).1(f)(3). First, she recommended we only note revision dates, pursuant to D. Kan. L.B.R. 1001.1(d), when the amendment is substantive. Second, she recommended the correction of D. Kan. L.B.R. 1007.1(a)(1)(O) to mimic discussion of small business debtors to match BAPCPA language regarding "election" of that status. She next recommended a change in D. Kan. L.B.R. 2090.1(a) to correct any misperception that the bankruptcy court had its own separate bar from the District Court bar. Next, she recommended revision of D. Kan. L.B.R. 4001(a).1(f)(3) to make it clear that Trustees would adjust claims to zero, effective on the date of the order, as soon as they received the order. Larry Michel moved and Bill Griffin seconded that the proposed amendments be adopted. The Committee unanimously approved the recommendations.

Hugh provided an overview of upcoming changes to Standing Orders. Standing Order 09-3 was discussed at the June 2009 meeting and will adopt Interim Federal Rule of Bankruptcy Procedure 5012. D. Kan. Bk. S.O. 09-4 will adopt Interim Federal Rule of Bankruptcy Procedure 1007-I (as revised). Finally, D. Kan. Bk. S.O. 09-5 will adopt Interim Local Rules establishing the required Federal Rule deadlines for the period from December 1, 2009 through March 17, 2010.

After a brief discussion, it was decided that a revised redline/strike through version of the stylistic changes would be circulated via email, because the original redline version previously circulated had been unhelpful because of a glitch in producing it. The Committee agreed to review the revised redline version to ensure that all proposed stylistic and substantive revisions were acceptable, and to communicate any questions or concerns to either Judge Karlin or Emily on or before October 15, 2009.

Problems with Implementation of S.O. 09-2

Next, the group discussed some issues related to enforcement of D. Kan. Bk. S.O. 09-2. Janet Walbert, a staff member of Bill Griffin's Chapter 13 Trustee office in Kansas City, presented a number of situations which are presenting challenges for the Chapter 13 Trustees. Problems include:

- Mortgage Creditors not timely filing Proofs of Claim
- Mortgage Creditor Providing Inconsistent or Contradictory Information, usually in regards to the required payment amount
- Difficulty in Contacting Mortgage Creditors or Attorneys for those creditors
- How to Proceed when a Mortgage Creditor fails to provide information or provides incorrect information.

After a lengthy discussion, it was recommended that the three Chapter 13 Trustees discuss what they consider to be necessary changes to the Standing Order and propose those changes to the Court.

CM/ECF information bar moved to bottom of page

Judge Karlin explained a recent change to the Court's CM/ECF computer system which moved the information bar (case number, document number, file date, and page number) imprinted on filed documents from the top of the page to the bottom of the page. The change came at the request of an attorney. Judge Karlin asked that if anyone has problems with the move they contact the Clerk's Office, chambers, or a member of the Bench-Bar Committee so that the problem(s) may be addressed. The Committee was enthusiastic in support of the move.

Conclusion and compliments

Finally, Lisa Epps complimented the Clerk's Office and the U.S. Trustee's Office for their help and support in a recent Kansas City Chapter 11 case. Others complimented the other Clerk's offices.

The meeting was adjourned at 11:35 a.m.

Minutes of the Bench Bar Committee
Topeka Courtroom 210
June 5, 2009

Members Present: Emily B. Metzger, Committee Chair
Hon. Janice M. Karlin, Judges Representative
Edward Nazar
Joyce Owen, US Trustee Representative
Lisa Epp
Richard Wallace
Chelsea Herring
Larry Michel
William Griffin, Chapter 13 Representative

Guest(s) Present: Hon. Dale L. Somers, Judge

Court Staff Present: Hugh Zavadil, Clerk's Representative

Members Absent: Tom Barnes
Jay Befort

The meeting was called to order at 10:10 a.m. Emily Metzger welcomed the committee. Emily noted that the minutes from the previous meeting had been circulated and approved via electronic mail.

Emily asked Hugh to explain the deadline-related rule changes that were being proposed. Hugh explained that on December 1, 2009, barring any actions by Congress, new Federal Rules of Bankruptcy Procedure will take effect. One of the primary features of these new rules will be to significantly alter the way deadline are computed in the Federal Courts. Essentially, deadlines in these rules are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21 -day periods
- 25-day periods become 28-day periods

Hugh walked the group through changes in D. Kan. LBRs 2002.1,2014.1, 3001.1, 3015(b).1, 4001(a).1, 4002.2, 5075.1, 7026.1, 7041.1, 8006.1, 9004.1, 9011.3, 9027.1, and D. Kan. Bk. S.O. 08-4 that will be needed if our rules are to comply with the new Federal Rules. Judge Karlin noted that any changes we adopt to conform our Rules to the Federal Rules will likely need to be adopted via Standing Order for the time period between December 1, 2009 and March 17, 2010 (the typical effective date for newly revised Local Rules). Richard Wallace moved and Bill Griffin seconded that the proposed amendments be approved and recommended to the Judges. The Committee unanimously adopted the recommendation.

Next, Hugh explained that the Federal Rule project did not deal with any deadlines of 30 days or more. He also noted that we have a number of 30 day deadlines specified in Local Rules. After some discussion, the group concluded that most of the 30 day deadlines specified in our Local Rules should be set at 28 days. The group also discussed Local Rules which "build-in" the additional three days for service by mail, as provided in Federal Rules. The consensus was Local Rules with this provision should continue to include this additional time. Finally, the group recommended that the Judges consider lengthening the current 10 day deadline for submitting orders to 14 days to make these Local Rules consistent with other approved changes.

Based on the above discussion, Hugh presented proposed amendments to D. Kan. LBRs 3015(b).1, 3022.1, 7012.1, 7054.1, 7056.1, 9013.2, 9074.1, D. Kan. Bk. S.O. 08-5, and D. Kan. Bk. S.O. 09-2. The group proposed further amendment to D. Kan. LBR 3015(b).1 (g)(5) extending the deadline to 35 days (from the proposed 28 days). The group also recommended D. Kan. Bk. S.O. 08-5 (dealing with cases commenced by a foreign representative) be further modified to include a sunset provision of December 1, 2010. Ed Nazar moved and Lisa Epps seconded that the proposed changes be approved, as amended by the group. The Committee unanimously adopted the recommendation.

During the discussion of order deadlines, Lisa Epps asked if the committee had given any consideration to the use of text orders in the District. Judge Karlin explained that we engaged in a rather lengthy process several years ago to develop text orders but those orders, for a variety of reason, had fallen into disuse except for continuances on large dockets. After some discussion, the group recommended that the list of text orders which are available be included in these minutes.

The following text orders are available upon request by any counsel or the Court:

- Borrow by Debtor-Denied
- Borrow by Debtor-Granted
- Ch 13 Trustee Dismissal-Denied
- Commence Distribution
- Compel-Denied
- Continue Hearing
- Objection to Claim-Denied
- Objection to Exemptions-Denied
- Objection to Exemptions-Granted
- Relief from Stay-Denied
- Relief from Stay-Granted
- Sell by Debtor-Denied
- Sell by Debtor-Granted
- Suspend Plan Pmts-Denied
- Suspend Plan Pmts-Granted
- Terminating Show Cause Order - Compliance
- Terminating Show Cause Order - No Compliance

Judge Karlin explained that the District Court was currently working on stylistic revisions to their Local Rules. In conversations with Judge O'Hara, she learned that they are trying to use a more active "voice" in their rules, to use more section headings, and to generally make the rules more readable. The District Court also asked if we are interested in making similar updates to our Local Rules. The changes being proposed are not substantive. Judge Karlin asked if some member of the Bench-Bar Committee might be interested in working with Judge Karlin and her Law Clerk in making these stylistic changes to our Local Rules. Emily Metzger volunteered to assist with the project with the goal of having those revisions ready to present to the Bench-Bar Committee at its next meeting.

Bill Griffin presented information about some problems he is encountering with D. Kan. Bk. S.O. 09-2. The first problem is some mortgage creditors are not timely filing proofs of claim. The Plan calls for mortgage payments through the plan but he cannot pay out collected funds until a proof of claim is filed. He has contacted both the creditor and debtor(s)' counsel and is still unable to get the proof of claim on file. A similar situation occurs when the mortgage lender sells the mortgage and the new creditor fails to file a Transfer of Claim.

Another issue in these cases, is when a post-petition default occurs on a mortgage. Sometimes, debtor(s)' counsel proposes payment of the arrearage direct to the mortgage creditor outside the Plan. Judge Karlin noted that this would make the trustee's mortgage-related records incomplete, thus making it difficult or impossible for the Trustee to fulfill his/her duty to file a motion, at the end of Chapter 13 cases, to deem the mortgages current.

During a lengthy discussion, Judge Somers recommended that Bill coordinate with the other Chapter 13 Trustees to make district-wide proposals addressing these issues. The group also discussed whether to incorporate the Standing Order 09-2 into a Local Rule. The consensus was that the process is still too new. The group recommended that the Standing Order remain, as is, so that the Court can more quickly respond as issues develop.

Judge Karlin asked to discuss some relatively minor issues with the group. The first involves a proposed amendment to a Local Rule to remove a reference to "small business election" as this provision no longer applies post-BAPCPA. She also mentioned that the National Conference of Bankruptcy Judges will be having it's annual conference in October. There is a $2,500 scholarship for minority attorneys to attend the conference. If any local minority attorney wishes to attend, he/she should contact one of the Bankruptcy Judges for more information.

During her recent presentation to the Kansas Bankers Association, Judge Karlin was told that some of the names used on the sample forms accompanying D. Kan. Bk. SO 09-2 were unbusinesslike. Judge Karlin responded that these names will be changed for the next iteration of the Local Rules.

The Committee also discussed D. Kan. Rule 77.1 regarding fax filings. The Bankruptcy Court rescinded its fax filing rule with the implementation of CM/ECF. The District Court recently amended their Rule to permit pro se filers to file by facsimile transmission. The consensus of the group was that we do not need to address this situation since it occurs so infrequently.

The meeting was adjourned at 12:43 p.m.

Minutes of the Bench Bar Committee
Topeka Courtroom 210
September 17, 2008

Members Present: Emily B. Metzger, Committee Chair
Hon. Janice M. Karlin, Judges' Representative
Edward Nazar
Jay Befort
Chelsea Herring
Tom Barnes
Larry Michel

Guest(s) Present: Hon. Robert E. Nugent, Chief Judge

Court Staff Present: Hugh Zavadil, Clerk's Representative

Members Absent: William Griffin, Chapter 13 Representative
Joyce Owen, US Trustee Representative
Lisa Epp
Richard Wallace

The meeting was called to order at 10:04 a.m. Emily Metzger welcomed the committee. New members of the committee were introduced.

Minutes of the Bench Bar Committee
Topeka Courtroom 210
September 17, 2008

Members Present: Emily B. Metzger, Committee Chair
Hon. Janice M. Karlin, Judges' Representative
Edward Nazar
Jay Befort
Chelsea Herring
Tom Barnes
Larry Michel

Guest(s) Present: Hon. Robert E. Nugent, Chief Judge

Court Staff Present: Hugh Zavadil, Clerk's Representative

Members Absent: William Griffin, Chapter 13 Representative
Joyce Owen, US Trustee Representative
Lisa Epp
Richard Wallace

The meeting was called to order at 10:04 a.m. Emily Metzger welcomed the committee. New members of the committee were introduced.

Emily explained that the minutes from the previous meeting of the committee had been circulated and approved via email, so that copies of the minutes could be posted on the Court's web site.

New Federal Rules of Bankruptcy Procedure, which take effect on December 1, 2008 implement the substantive and procedural changes currently enforced in the Interim Rules. As such, the group discussed abrogation of D. Kan. Bk. S.O. 05-5 which adopted the Interim Federal Rules for the District of Kansas. Hugh suggested that since one of the Interim Rules— Interim Rule 5012— was not being replaced, we might maintain the Standing Order. Judge Nugent suggested that the Court adopt a new Standing Order, which adopts the language of Interim Rule 5012, and abrogates the rest of the Interim Rules because discussions relative to Interim Rule 5012 may not be resolved for a considerable period of time. The Committee concurred with Judge Nugent's recommendation and Hugh will draft a Standing Order for the Court that adopts the language of Interim Rule 5012 and

simultaneously abrogates the rest of the Interim Rules.

Judge Karlin initiated a conversation about D. Kan. Bk. S.O. 08-1 (Standing Order concerning Conduit Mortgage Payment in Chapter 13 cases). First, since this Standing Order does not become effective until October 1, 2008, Judge Karlin asked the group if there were any known problems with Order, as drafted, which might be addressed prior to implementation. Judge Karlin also shared the Clerk's recommendation that the Standing Order remain a Standing Order to permit easier modification if problems are discovered during the implementation of the Order. Finally, Judge Karlin noted that the version of the Standing Order signed by the judges failed to include a sample, referenced in Appendix H to the Order. This problem is being corrected with a corrected version that is currently being circulated for signatures. The group agreed that the Standing Order, as corrected, should be maintained as a Standing Order until the updated Local Rules for March 2010 are published.

Judge Karlin explained the history of D. Kan. Bk. S.O. 08-2 (Standing Order concerning Chapter 13 Trustee's Modification of Plan After Confirmation), which is essentially to allow a
Chapter 13 Trustee to compel a Debtor to return an asset to the estate, usually a pre-petition tax refund—by filing a Trustee amendment to the plan requiring repayment before the Debtor will get a discharge. This is in lieu of more time-consuming Orders to Show Cause procedures, when a Debtor does not obey a Court order to turnover. Judge Karlin recommended that the text of this Standing Order be adopted by the Committee as D. Kan. LBR 3015(g).1. Jay Befort asked if the adoption of this as a Rule would have any impact on trustee recovery of tax refunds from the State of Kansas. After a brief discussion, the group concluded that Jay's concerns were probably unrelated to the adoption of this proposed Local Rule. Jay moved that the Committee recommend adoption of D. Kan. LBR 3015(g).1, and Tom Barnes seconded. The Committee unanimously adopted the recommendation.

Judge Karlin introduced a discussion of D. Kan. Bk. S.O. 07-4 (Statements Creditors Shall Provide to Consumer Debtors who are Repaying Debt Secured by a Mortgage on Real Property or a Lien on Personal Property the Debtor occupies as Debtor's Personal Residence). Specifically, the group discussed whether amendments were necessary to this Standing Order in light of the adoption of D. Kan. Bk. S.O. 08-1. Several areas of potential conflict or overlap were noted. After a lengthy discussion, Chelsea Herring and Tom Barnes volunteered to draft proposed amendments. Hugh explained that the public comment period for Local Rule changes will run from November 1, 2008 through November 30, 2008. Based on the publication schedule, Tom and Chelsea agreed to review the draft with Judge Nugent via conference call on or before October 7. After reviewing the proposal with Judge Nugent, the proposal will be circulated to the full Committee for review by email.

Hugh briefed the Committee on the upcoming implementation of the Judicial Conference policy on electronic availability and redaction of transcripts. Key components of the policy are as follows:

- A transcript provided to a court by a court reporter or transcriber will be available at the office of the clerk of court for inspection only, for a period of 90 days after it is delivered to the clerk.
- During the 90-day period, a copy of the transcript may be obtained from the court reporter or transcriber at the rate established by the Judicial Conference, the transcript will be available within the court for internal use, and an attorney who obtains the transcript from the court reporter or transcriber may obtain remote electronic access to the transcript through the court's CM/ECF system for purposes of creating hyperlinks to the transcript in court filings and for other purposes.
- Attorneys or parties in the case must file a Notice of Intent to Request Redaction within 7 calendar days from filing the restricted transcript.
- Attorney or parties must file a Request for Redaction within 21 calendar days from the filing of the restricted transcript.
- The court reporter or transcriptionist must file a redacted version of the transcript (if redactions have been requested) within 31 calendar days of the filing of the restricted transcript.
- At the end of the 90-day restriction period, if a redacted version of the transcript is NOT filed and if there are no other redaction documents or motions linked to the transcript, the unredacted version will be made available via remote electronic access and at the public terminal for viewing and printing. Otherwise, the redacted version will be made available via remote electronic access and at the public terminal for viewing and printing.

The consensus of the Committee was that the Court's website should contain a Notice of these policies. If possible, CM/ECF should be configured to provide counsel of record with the relevant deadlines. Judge Nugent volunteered to discuss the matter with the District Court judges to see if the District Court planned to implement a Rule or Standing Order pertaining to this issue.

Judge Karlin introduced a discussion about motions to extend automatic stay. Specifically, Judge Karlin is concerned that parties cannot provide proper notice of hearing in these matters without shortening the notice period. Judge Karlin noted that these motions are routinely accompanied with motions to shorten notice and the motions to shorten notice are routinely granted because the Code requires these hearing to be held within 30 days. Judge Karlin wondered if a rule to permanently shorten the notice in these cases would be worthwhile. Judge Nugent observed that this situation rarely occurs in the Wichita division. After a discussion, Judge Nugent suggested that Judge Karlin adopt some provisions to her local guidelines to attorneys as a "pilot program" to test the effectiveness of the proposal. The group supported Judge Nugent's proposal.

In a follow-up conversation, Judge Karlin noted that the Bench-Bar Committee is more than simply a Local Rules Committee. The judges sometimes ask to have topics placed on the agenda to get a sense from the bar as to how procedures and processes are working. She encouraged members of the group to bring such issues to the meetings.

Emily introduced a discussion of D. Kan. LBR 4070.1 (Insurance on Motor Vehicles) in light of the recent 8th Circuit Bankruptcy Appellate Panel ruling In re: Suggs, 377 B.R. 198 (8th Cir. BAP 2007) (holding that WD Mo's similar local rule, allowing repossession of vehicles that purportedly are uninsured before establishing irreparable injury with the Court, was invalid as contrary to § 362(a), as implemented by Fed. R. Bankr. P. 4001(a)(2)). After a brief discussion, it was concluded that the group should explore modifications to D. Kan. LBR 4070.1. Jay, Emily, and Ed volunteered to draft proposed revisions to the local rule based on the discussions of the full committee. Again, because of the publication deadlines, the sub-committee hopes to have its draft to the rest of the committee by early October.

Judge Nugent discussed some recent conversations he has had with colleagues in the District Court about the publication of the local rule book. It has recently been suggested that publication of the hard copy book be suspended in favor of on-line publication. The committee discussed the issue at length. The consensus of the group was that the publication of the hard copy of the local rules book should continue. Judge Nugent was urged to recommend "...as forcefully as possible..." that consensus to the District Court Judges.

Hugh reviewed the mechanics of the Chapter 13 closing process proposed by the Chapter 13 Trustees. Highlights of the proposed process include:

- About six months before anticipated plan completion the Chapter 13 Trustees will file a Notice of Plan Approaching Completion.
- If no Financial Management Certificate has been filed, CM/ECF will send a notice to Debtor and Debtor(s)' counsel reminding them that the Financial Management Certificate must be filed prior to making the last payment in a Chapter 13 plan.
- Upon completion of all plan payments the Trustees will file a Notice of Chapter 13 Plan Completion.
- If no Financial Management Certificate has been filed, the Clerk's office will issue a Notice of No Discharge and, upon completion of administration, close the case without entry of a discharge.
- If the Financial Management Certificate has been file, the Chapter 13 Trustees would like debtor(s)/debtor(s)' counsel to file a Certificate of Compliance and Motion for Entry of Discharge. This document would require the debtor to assert, under oath, that all of the necessary conditions specified in section 1328 have been met and that the case is ready for discharge.
- If an objection is filed to the Certificate of Compliance, or if the debtor meets either of the conditions specified in 1328(h), a hearing would be held to resolve the issue(s).

About six months before anticipated plan completion the Chapter 13 Trustees will file a Notice of Plan Approaching Completion.
• If no Financial Management Certificate has been filed, CM/ECF will send a notice to Debtor and Debtor(s)' counsel reminding them that the Financial Management Certificate must be filed prior to making the last payment in a Chapter 13 plan.
• Upon completion of all plan payments the Trustees will file a Notice of Chapter 13 Plan Completion.
• If no Financial Management Certificate has been filed, the Clerk's office will issue a Notice of No Discharge and, upon completion of administration, close the case without entry of a discharge.

• If the Financial Management Certificate has been file, the Chapter 13 Trustees would like debtor(s)/debtor(s)' counsel to file a Certificate of Compliance and Motion for Entry of Discharge. This document would require the debtor to assert, under oath, that all of the necessary conditions specified in section 1328 have been met and that the case is ready for discharge.
• If an objection is filed to the Certificate of Compliance, or if the debtor meets either of the conditions specified in 1328(h), a hearing would be held to resolve the issue(s).

Emily introduced the topic of including an attorney email address in the signature line of pleadings. She noted that, while the Bankruptcy Court local rule (D. Kan. LRB 9011.4) does not explicitly require an email address, the District Court rule (D. Kan. Rule 5.4.8), which is applicable to the Bankruptcy Court, does include such a provision. The group discussed the potential for problems if/when debtor(s) would obtain a creditor attorney email address off a pleading and attempt to contact the creditor attorney directly via email. Tom moved that the Committee recommend modification of D. Kan. LBR 9011.4 to include a requirement for attorney email address, to make it consistent with the D. Kan. Rule, and Larry Michel seconded. The Committee unanimously adopted the recommendation.

Jay commenced a discussion of the District of Arizona's local rule 9022-1. This rule requires attorneys to file a Notice of Lodging whenever a proposed order is submitted to the Court. The Notice includes a copy of the proposed order and is served electronically by the Court's CM/ECF system. Jay indicated that this methodology might alleviate delays that occasionally occur when circulating orders to obtain approvals and signatures. The group discussed the Arizona rule and D. Kan. LBR 9074.1. After considerable discussion, the consensus of the group was that D. Kan. LBR 9074.1 worked effectively, when used, and that the Arizona rule did not offer a superior tool for order circulation. The matter was tabled.

Members of the committee commented favorably about the Court's new website, and briefly discussed whether there were any observed problems with compliance with the Service Members Civil Relief Act, in light of the number of debtors in the military.

Judge Karlin introduced the topic of form chapter 13 plans. A consensus of the group was that if we use form chapter 13 plans, the plans must clearly identify provisions that deviate from the language of the default form plan. It was also noted that not all provisions of a form plan are applicable to all debtors (e.g. provisions concerning the domestic support obligations for a debtor who is not and never has been married).

Finally, Ed Nazar presented some information about proposed revision of D. Kan. LBR 6007.1 regarding abandonment. Ed volunteered to draft the changes and circulate to the group for review and approval.

The meeting was adjourned at 1:57 p.m.

NOTE: Subsequent to the meeting, the Committee voted, via electronic mail, to 1) further amend D. Kan. LBR 9011.4 to include facsimile number in the list of required elements for signature lines on pleadings; and 2) to modify Standing Order 07-4 (which we are retaining as a Standing Order for at least a year) to make it consistent with Standing Order 08-3 (Conduit Mortgage Payments).

Minutes of the Bench Bar Committee
Topeka Courtroom 210
September 13, 2007

Members Present: Emily B. Metzger, Committee Chair
William Griffin, Chapter 13 Representative
Hon. Janice M. Karlin, Judges Representative
Richard Wieland, Acting US Trustee Representative
Jay Befort
Chelsea Herring
Thomas Barnes
Jeffrey Deines
Susan Saidian
Christopher Redmond

Guest(s) Present: Hon. Robert D. Berger

Court Staff Present: Hugh Zavadil, Clerk's Representative

The meeting was called to order at 9:44 a.m. Emily Metzger welcomed the committee. New members of the committee were introduced.

Emily explained that the Minutes from the previous meeting had been approved via an electronic mail vote. She then introduced a brief discussion of Section 707(b) motions. Judge Karlin explained that these motions are set directly to the docket. Without a response deadline, these cases often have to be continued because the debtor(s)' defense is unknown to the U.S. Trustee. Richard observed that he would try to make noticing uniform throughout the District. Richard agreed to work with Hugh on developing a procedure with the Clerk's office. Judge Karlin also reminded the US Trustee representative that AUSTs can often appear by telephone, if scheduled in advance, to minimize extensive travel for them.

Susan Saidian noted that nothing further has been proposed regarding the D. Kan. L.B.R. 2002 modification, which was discussed at the April meeting. She agreed to contact Emily to have the matter placed on a future agenda if more discussion is necessary.

Emily introduced a discussion which was a carry-over from the last meeting, regarding what motions/hearings, etc. need to be filed/conducted to close Chapter 13 cases upon plan completion. Bill Griffin agreed to contact his counterparts and try to develop a standard procedure to ensure that all statutory requirements are met. Some of the BAPCPA changes deal with making sure the debtor is current on DSOs, making sure the debtor has completed the personal financial course, and making a finding that 522(q)(1) is not applicable to the debtor and that no pending felony charge exists implicating federal securities law and that debtor has no debt incurred during the prior 5 years arising out of a criminal act, intentional tort, or willful/reckless conduct causing serious physical injury or death. Judge Karlin noted that the matter was discussed at a recent Judges' meeting and the Judges requested that the Chapter 13 Trustees make a proposal rather than having the Court impose a solution.

Judge Karlin explained the background leading to the Court's adoption of D. Kan. Bk. S.O. 07-02. She noted that the Court is not "out to get" mortgage companies. Instead, they are trying to minimize problems associated with mortgage payment changes. It is anticipated that the Standing Order will help both debtors and mortgage creditors. She also noted that any feedback on the operation of the Standing Order should be routed to members of the Bench-Bar Committee. If it becomes evident that the Standing Order needs to be modified, the Court will undertake such revision at the request of the Committee. Judge Karlin also noted that feedback on this, or any other issue, can be circulated to the full committee via electronic mail between Bench-Bar Committee meetings.

Chelsea Herring indicated that she had heard some concerns that paragraph (b)(7) of the new Standing Order did not specify a time frame for submitting notice of default to the debtor. Judge Karlin explained that while the Court did not want to specify a hard and fast time frame, any notice provided under this section should give debtor(s)/debtor(s)' counsel adequate time to respond before the subsequent Motion for Relief from Stay is filed.

Emily noted that the sub-committee responsible for developing the first draft of this Standing Order engaged in lively and spirited discussion. While there are a number of concerns about the Standing Order, the group felt that this Order represented the best compromise between debtor and creditor interests. The consensus of the group was that we should see how the implementation of this Standing Order plays out, and respond if or when problems become apparent.

Judge Karlin updated the Committee on procedures adopted by the Clerk to issue a 'reminder" notice, to Chapter 13 debtors, regarding the requirement to complete a post-petition course in financial management before the final payment under the plan. The notice will be issued by the Clerk's office six months after case filing. Hugh advised the group that the Clerk's office is now issuing these notices, starting with the oldest post-BAPCPA cases, which are the closest to discharge.

Emily introduced the discussion of proposed D. Kan. L.B.R. 3010. Judge Karlin observed that she regularly receives motions from the Chapter 13 trustee for court approval of very small distributions to unsecured creditors. Bill Griffin suggested that this rule would permit the Chapter 13 Trustees to clean up cases with small amounts of money for distribution. Chris Redmond noted that the examples listed in the proposed Rule were probably inappropriate. It was recommended that the examples form the basis for the "comments" on the proposed Rule when published for public comment, and that they be deleted from the rule, itself. Judge Karlin moved and Tom Barnes seconded to adopt the proposed L.B.R., as amended. The motion passed unanimously (Note: a copy of the Rule, which will become effective March 2008, will be posted on the court's website).

Emily introduced the discussion of the pending changes to Federal Bankruptcy Rules which are to become effective December 1, 2007 (copies of the proposed Federal Rules and related Committee Notes are posted at : http://www.uscourts.gov/rules/newrules6.htm#proposed0805).

The proposed new rule, Fed. R. Bankr. P. 9037, was discussed at length. This proposed rule requires the redaction of all but the last four digits of social security numbers and financial account numbers in all pleadings filed with the Court. Some trustees have suggested that checks sent to creditors without those financial account numbers [currently listed in schedules or on the Proof of Claim] will cause payments to be returned to the trustee.

Tom Barnes noted that he has never included those numbers in schedules because the practice lends itself too easily to identity theft. Emily, likewise, expressed concerns about identity theft . It was noted that the Court's PACER system is periodically scoured by data miners. It was also noted the D. Kan. L.B.R. 4002.2 would permit the trustee to obtain account number information directly from debtor(s)/debtor(s)' counsel without requiring debtor file that information with the Court.

Bill Griffin said that his office currently uses an introductory letter to all debtors shortly after the case is filed. He suggested that he may modify that letter to include a request for financial account numbers for payment processing. Chris Redmond told the group that several years ago he surveyed creditors, because of the volume of returned payments he received. He found out that the complete name and address were the most important pieces of information in matching payments. After his office started including the address of the debtor on all payments, they receive much less returned mail.

Bill indicated that he would contact Jan and Laurie to work out information requests so that debtors receive consistent requests regardless of where they file. Proposed Fed. R. Bankr .P. 9037, together with Committee Notes, can be viewed at the following web site: http://www.uscourts.gov/rules/Rules_Publication_August_2005.pdf#page=47 . It was also suggested that minutes include hyperlinks to the new rules.

Hugh also noted that an additional package of Federal Rules, scheduled to become effective on December 1, 2008, have been published for public comment. These rules are available at: http://www.uscourts.gov/rules/index2.html#proposedpub . The public comment period for these changes extends until February 15, 2008.

Bill Griffin introduced a discussion about the proposed Confirmation Order developed by the three standing Chapter 13 Trustees. He noted that there are still disagreements about vesting (specifically, whether vesting occurs at confirmation or at case conclusion).

Chris Redmond shared a concern he had heard when he circulated the proposed Confirmation Order to other Chapter 7 Trustees for review prior to the meeting. He said that several jurisdictions had local rules determining that tax refunds, pending at the time of conversion, become the property of the Chapter 7 estate upon conversion. Judge Karlin observed that while we may not develop a uniform Confirmation Order used throughout the district, the possibility exists for a more consistent order, particularly between the Kansas City and Topeka offices.

Bill Griffin indicated some reservations about the paragraph of the proposed order that prevents the debtor from incurring additional debt during the pendency of the plan. He noted that in some other jurisdictions, trustees are allowed discretion to authorize debtors to incur debt up to a specified limit (e.g., $2,000), without filing a motion, pursuant to § 1305(c). After discussion, it was noted that specifying a limit might unnecessarily restrict trustee discretion in the matter. Judge Berger and Judge Karlin agreed that they would discuss the issue with the other judges. Judge Karlin also suggested that the Judges might make some other minor revisions to the confirmation order.

Emily announced the formation of an ad hoc committee, appointed by the judges, to study the possibility of requiring debtors in Chapter 13 cases to make mortgage payments through the plan when a debtor is delinquent on mortgage payments at the time of filing, or becomes delinquent during the pendency of the case. The committee, which consists of Chelsea Herring, Tracy Robinson, David Fricke, Frank Ojile, David Lund , William Griffin, Jan Hamilton, and Laurie Williams, and Judge Nugent as the chair, will meet September 14, 2007. Judge Karlin explained that the Judges are exploring this possibility in the hope that it permits debtors to stay current with home mortgage payments, improves mortgage payment record-keeping, and provides creditors with more timely payments. The committee will discuss a number of issues with the proposal including: handling the first few (pre-confirmation) payments, trustee fees, employer withholding orders, and the need for Local Rules and/or Standing Orders to support the proposal. Judge Karlin also suggested that if any member of the Bar has comments or suggestions regarding the matter, he/she should contact a member of the ad hoc committee.

The date for the March 2008 meeting will be decided and circulated via electronic mail. The meeting was adjourned at 12:53 p.m.

Minutes of the Bench Bar Committee
Topeka Courtroom 210
April 2, 2007

Members Present: Laurie Williams, Chapter 13 Representative and Committee Chair
Hon. Janice M. Karlin, Judges Representative
Joyce G. Owen, US Trustee Representative
Emily B. Metzger, Standing US Attorney's Office Representative
Jay Befort
Douglas Depew
Wesley Smith
Jeffrey Deines
Susan Saidian
Robert Kumin
Christopher Redmond (Mr. Redmond was available for only a portion of the meeting)

Guest(s) Present: Hon. Robert D. Berger

Court Staff Present: Hugh Zavadil, Clerk's Representative

The meeting was called to order at 10:07 a.m. Judge Karlin welcomed the committee.

The first order of business was approval of the minutes of the August 30, 2006 meeting. Jay Befort moved, and Douglas Depew seconded, that the minutes be approved as submitted. There was no discussion on the matter and the motion was approved on a unanimous voice vote.

Hugh Zavadil presented an overview of a packet of proposed rule changes. The changes were being proposed to incorporate most of the Standing Orders of the Court into regular Local Rules. During discussion, questions were asked about proposed D. Kan. LBR 2002.2, dealing with scheduling and noticing of federal and state agencies as creditors (which would replace D. Kan. Bk. S.O. 07-1). Members of the group asked if it would be more difficult to regularly change names and addresses if they were maintained in a Local Rule instead of a Standing Order. Hugh explained that the Registry of mailing addresses for Federal, State and local governmental units responsible for the collection of taxes, required by Fed. R. Bankr. P. 5003, is actually maintained on the Court's website. As such, the publication of these addresses in a Rule or Standing Order is simply a convenience to debtors' counsel.

After a brief discussion of the relationship between proposed D. Kan. LBR 1007.2 (which would replace D. Kan. Bk. S.O. 05-1) and proposed revisions to D. Kan. LBR 1007.1, it was decided that proposed D. Kan. LBR 1007.2 be amended to incorporate some changes proposed by the group (copies of the proposed rules, including these changes, are attached to these minutes). Upon motion by Judge Karlin, and second by Wes Smith, the proposed rules were adopted on a unanimous voice vote.

Doug Depew introduced proposals that he had received to (1) post notices of upcoming Bench-Bar Committee meetings on the bk-kansas listserv, (2) post agendas for upcoming meetings on the Court's website, and (3) to post minutes of the Bench-Bar Committee meetings on the Court's website. During the discussion which ensued, Hugh noted that the minutes from the last two meetings were posted on the Court's website. The group also discussed the problems of posting unapproved minutes. It was decided that the group would develop a procedure to approve meeting minutes via electronic mail, rather than waiting for the next regular BB meeting. Judge Karlin directed Hugh to see that announcements for upcoming meetings were circulated via the bk-kansas listserv.

The group also discussed usability problems with the Court's current website. Hugh informed the group that a redesign of the website was underway.

Doug shared that he was contacted by an attorney in advance of the meeting, who asked if the Court could provide an update on significant legal issues and decisions. Doug responded directly to the attorney that the best way to keep up with these issues is by joining the bk-kansas listserv and attending the annual K.B.A. Bankruptcy Section seminar. It was also noted that all written opinions by all four bankruptcy judges are posted and maintained on the Court website (under Judges' Corner) and often circulated on the bk-kansas listserv. It was observed that the Topeka Area Bankruptcy Council and the Wichita Bar Association's Bankruptcy Council both distribute digests of recent opinions to members. The consensus of the group was that attorneys should be encouraged to join and attend meetings of these organizations and, where possible, obtain program materials. (Lee Hendricks is a contact for joining the Topeka Area Bankruptcy Council and Bill Zimmerman is a contact for joining the Wichita

Bar Association's Bankruptcy Council). Judge Karlin also passed out an article she has recently written for the K.B.A. Bankruptcy and Insolvency Section Newsletter, which includes a summary of all post-BAPCPA written decision in the District.

Doug presented another topic he received from a member of the bar concerning use of the Debtor's Certification in conjunction with the Certificate of Completion for the post-petition course in Financial Management. Interim Fed. R. Bankr. P. 1007 requires submission of the statement prepared as prescribed by the appropriate Official Form (Official Form B-23). Members of the group agreed that the Certification requirement duplicates information on the Certificate. Interim Federal Rules are pending final adoption, and as such, will be subject to a public comment period. Members of the bar are encouraged to watch for, and submit, public comments as appropriate (public comment periods are posted and comments can be submitted under "Federal Rulemaking" link at the U.S. Court's website: www.uscourts.gov).

Doug received a question from a Kansas City attorney about why attorneys and clients were being required to appear at Reaffirmation Hearing dockets when the attorney had already signed the Reaffirmation Agreement. Judge Berger stated that these cases were being set for hearing in Kansas City when the Reaffirmation Agreement shows "undue hardship" and contains no rebuttal of undue hardship. Judge Berger also noted that in the past, the Clerk's Office had set a number of cases for the Reaffirmation Hearing docket that should not have been set. As a result, he is now reviewing these settings prior to the Reaffirmation Hearing docket so attorneys can be notified if a hearing is unnecessary. He also suggested that if an attorney feels a case would be more appropriately heard on the Chapter 7 docket, he/she should call the Clerk's Office to request such a setting. He also noted that he has discussed the matter with the attorney who raised the question and considers the matter resolved.

Doug also introduced a discussion about § 707(b) motions filed by the office of the U.S. Trustee, the fact that these are noticed by the Clerk, and that the notice sets the matter straight to the docket without requiring any response from debtor or counsel. The U.S. Trustee has to send someone to court, because she doesn't know whether the debtor is going to object (or, even be present). Further, if there is an objection, the hearing will usually be continued to another docket on another date. The consensus was that these motions should be noticed to a hearing about 30 days down the road, but with an objection deadline at least 5 days prior to the hearing. The thought on the 30 days is that some attorneys exclude representation of a § 707(b) motion in their fee agreements, and they need time to get in contact with their clients to explain the Motion To Dismiss, to see if their client wants to retain them to defend, and if not, for the debtor to potentially retain new counsel. The committee agreed that these matters should appear on the docket, even if no response is filed. Judge Karlin said she would like to discuss this issue with the other judges. Specifically, the judges will discuss how far in advance these matters should be set, whether there should be an objection deadline inserted, and whether the hearing should occur regardless whether a written response is filed.

Laurie Williams introduced a discussion of how the Chapter 13 trustees should approach questions of discharge eligibility under § 1328, for post-BAPCPA debtors who have completed, or are about to complete, plan payments. Their concern involves at least four issues: 1) has the debtor completed the financial management course and filed the requisite paperwork; 2) is the debtor current on child support obligations; 3) is the debtor even entitled to a discharge because of a previous discharge; and 4) how is the determination that § 522(q)(1) is not applicable to the debtor going to be determined. Initially, the Chapter 13 Trustees discussed the possibility of preparing and filing a "Notice of Completion of Plan Payments." After discussion, the Trustees could not come to any consensus on the form or content of such a document.

As a related matter, Judge Karlin distributed a copy of a notice currently being developed by the Court regarding post-petition Financial Management course. The Notice is patterned after a similar Notice currently used in Chapter 7 cases. One Chapter 13 Trustee suggested that the proposed notice might be too complicated. Judge Berger suggested sending this notice six months or a year from the date of filing. This permits the Court to discharge its duty to inform debtors and still permits the Notice to go out before most debtors are close to plan completion. After some additional discussion, the consensus of the group was that six months from date of filing would be best, because debtors would get the earlier benefit of the content of the financial management course, and the reminder would come at a time closer to when their attorney and the Chapter 13 trustee had reminded them to take the course. Judge Karlin noted that she needed to discuss these matters with the other judges, and that the Court would likely start issuing these notices.

Laurie led a discussion about a Standing Order and proposed Local Rule from Vermont that require mortgage creditors, service centers, and other secured creditors to provide debtors with information including principal balance, maturity date, current interest rate, current escrow balance, interest paid to date, and property taxes paid to date, as well information containing any payment changes or interest rate changes, with an explanation why those changes were required. Some creditors decline to send this information, even including monthly statements that they would otherwise send to non-debtor customers, fearing the allegation of a § 362 stay violation. Several members of the creditors bar had been solicited prior to the meeting to comment on these items. The consensus of those attorneys was that the Standing Order and proposed Rule were overbroad and that not all creditors were capable of complying with the requirements due to computer software issues. In addition, these attorneys expressed concerns about being required to produce different forms of information in each of the 94 judicial districts.

Attorneys who regularly represent debtors shared problems they have encountered in obtaining information about their clients' mortgages, including where payments are being applied, what the payment amount should be, why payments have precipitously risen in some instances, and whether the mortgagees' records showed the debtor as "current" at the end of a Chapter 13 plan. After an extended discussion, it was agreed that some mechanism needs to be developed to improve communication between debtors and creditors to allow conscientious debtors to keep up with changes in their mortgage accounts and to stay current with requisite payments. In addition, creditors need to be able to provide this information without fear of sanctions for violating the automatic stay. Numerous anecdotes were provided illustrating the extent of the problem.

Judge Berger proposed that a subcommittee draft a proposal for consideration by the entire committee. Bob Kumin, Wes Smith, and Emily Metzger agreed to constitute the subcommittee, and their mission is to deal only with residential consumer mortgages at this time. The proposal should allow creditors to provide information without fear of sanctions and the information required should include, at a minimum, any payment changes, any interest rate changes, a legible and understandable payment history when requested, and the amount necessary to cure. Laurie also suggested that the rule require the mortgagee or servicer to also provide the information to the trustee in those cases when the trustee is making the ongoing mortgage payment through the plan. The subcommittee was asked to circulate of draft proposal by the end of April.

Susan Saidian presented a request she had received to modify D. Kan. LBR 6007.1 and D. Kan. LBR 2002.1 to further clarify noticing requirements for abandonment and sales. After discussion, it was concluded that the combination of the 341 Meeting Notice and any electronic notice obtain via the Court's CM/ECF system were adequate and that D. Kan. LBR 6007.1 should not be amended. Susan will also seek further clarification of the proposed change to D. Kan. LBR 2002.1 from the constituent who had asked for a review, and communicate same back to the group.

Susan also discussed a request she had received asking that creditor contact information appear on the first page of all reaffirmation agreements. After discussion, it was noted that reaffirmation agreements should be filed on Director's Procedural Form B-240 if at all possible. The Director's Procedural Form has the creditor name on page one and contact information on page 6. The group did not propose any Local Rule change as a result of this proposal.

Wes discussed a Notice (that a debtor had not completed his financial management course), which he had received from the Court that did not include a case number or caption. It was noted that this form has now been replaced by a system generated Notice that references the caption of the case, so this issue is resolved.
Bob Kumin presented an issue he received from an attorney, who questioned whether a "no look" fee could be set for the filing of stay relief motions. The issue is that if a seemingly large fee for filing a routine RFS motion is included, a debtor's counsel must then file an objection (even when there is no objection to the underlying stay relief), which then necessitates a hearing. The proponent thought that if the Court set a "no look" fee for "average" RFS motions—like two courts have for Chapter 13 attorney fees for debtor(s)' counsel, it would help creditors know what fee to ask for, and it would help debtors' attorneys know when it would be cost-effective to object. Bob noted that not all MRS were "garden variety" enough to justify setting a "no look" fee. The consensus of the group was that, while a presumptive fee may eventually be set as a result of litigation over a particular fee, it would be inappropriate to establish such a fee via local rule. Judge Karlin also noted that she frequently discusses during hearings whether a particular requested fee–on its face and without hearing evidence—seems high, based on her own experience, and that creditors attorneys' seem to be taking that conversation to heart in requesting fees.

Judge Karlin made an announcement about an upcoming Topeka Area Bankruptcy Council program and the Court's planned implementation of a new phone system. Judge Karlin also thanked Laurie Williams, Wes Smith and Doug Depew for their service on the Committee, since this meeting was likely the last official meeting before the end of their terms. Laurie also thanked the group for their efforts.

The meeting was adjourned at 2:32 p.m.