

FLNB Attorney Board of Advisors

Meeting Summary for August 25, 2008

*Attendees: Jason Egan, Sharon Sperling (via telephone), Jim Sorenson, Sherry Chancellor,
David Abrams, Luke Adams, Bill Blevins and Kevin Davis.*

1. Follow-up from previous meeting:

A. Mortgage issues. The administrative office of chapter 13 trustees is in the process of developing a list of best practices which will include guidance on mortgage issues in chapter 13 cases as it pertains to communications between debtors and creditors on post-petition mortgage issues. Bill noted that the discussions are being conducted on a national level and in that there are some concerns about the courts developing their own guidelines. It is anticipated that the protocols issued will include a component in which changes to mortgage payments are handled by filing an amended claim. It is also anticipated that a formal document will be entered in a case which indicates the status of the debt to prevent future disputes about claim amounts, arrearages, interest rates, etc. Sharon inquired as to whether there will be an informal process in place while the national guidelines are being developed. Bill indicated that there is no requirement that something be entered on the docket regarding these issues.

B. Bar Seminar. The Bankruptcy Bar conference is scheduled for September 19, 2008. The clerk's office will be making a presentation updating the group on statistics, procedure information and a general "what's happening" at the clerk's office. At Jason's suggestion from the previous meeting, the presentation includes changes to the Administrative Procedures.

The clerk's office will also be doing an informal Q&A session at 5:00 p.m. on Thursday, September 18, 2008 in the Dolphin Room at the Sandestin Hilton. We will solicit topics and questions prior to the session.

Jason noted that a live video / web feed of the conference isn't cost effective for the association. However, a CD of the conference will be produced and made available to members who are unable to attend. The cost of the CD will be determined later.

C. Attorney fees in Chapter 13 cases. The Fourth Amended Standing Order No. 9 was entered on July 17, 2008. The standing order governs ordinary and routine fees allowable debtors' attorneys in Chapter 13 cases.

D. Upgrade to CM/ECF. The upgrade to version 3.2 will take place the weekend of August 30. The system will be unavailable during the day on Saturday, August 30. Attorney demonstrations have been conducted in Gainesville and Tallahassee divisions and will be conducted in Pensacola and Panama City later this week.

2. Follow-up from Clerk's attorney visits. Bill reported on his visits to members of the bar conducted over the summer to attorney customers. The annual conferences with ECF users resulted in general and specific information, feedback and suggestions. Based on feedback, the

Clerk's Office has incorporated a second reminder for notices related to the financial management course requirements. The Clerk's Office is reviewing adding trustee contact information to a more prominent location on the court web site.

3. Local Rules process. The Clerk's Office will probably conduct a review of the Local Rules some time in 2009. Anticipated changes will include modifications brought about by changes to the national official bankruptcy forms as well as new procedures regarding Chapter 13 mortgage issues described above. In the past, the Clerk's Office has relied upon local attorneys to assist with the endeavor. We may be looking for volunteers or suggestions from the members of the Board. Sherry noted that the Local Rules should be tightened up on parties filing a pleading on the eve of a court hearing. This issue will be added to the list of items to be examined and reviewed.
4. Uniform motions. Jason noted that he has not received any volunteers from the Bankruptcy Bar Association to work on drafting uniform motions. He suggested that we include this subject at the conference in September. Bill stated that Karin Garvin suggested a form for Objection to Claim. The Clerk's Office is currently working on a draft. Kevin will send Jason a list of suggested pleadings that we would like to have members of the association consider drafting.
5. CM/ECF upgrade. The upgrade to version 3.2 will take place the weekend of August 30. The electronic filing system will be unavailable most of the day Saturday. Demonstrations of the upgrade were conducted in Gainesville and Tallahassee and are scheduled for Pensacola on August 28 and Panama City on August 29. We received a comment at the Gainesville demonstration that the last few days of the month are typically the busiest for filing new cases in order to avoid having to obtain new pay stubs and recalculation of the means. These issues will be taken into consideration for future upgrades.

Sharon suggested that a process be put into place whereby new cases can be submitted for filing by email on an emergency basis when the system is unavailable. Richard Mildenberger, Chief Deputy, joined the meeting at this point to discuss the issue. It was noted that we currently have "after hour filing" instructions on the web site which includes information on how to contact Richard in an emergency situation. Richard will work with attorneys to preserve the filing date and time in emergency situations.

There have been reports from other courts that the speed of CM/ECF is diminished under the new version. The Clerk's Office will monitor the issue. If it appears the speed becomes a problem that impacts how attorneys do business, members of the Board of Advisors may be asked to draft a letter to the Administrative Office of the Courts about the issue and requesting them to move quickly in their plans to develop a new version of the electronic case filing system.

6. Court calendars. There was a discussion as to using the ECF calendar versus the public calendar or other calendars. A majority of the members stated they use the ECF calendar because (1) it is the official calendar of the court used by the judge and trustees, and (2) the sorting order in the public calendar is different than the order displayed in the public calendar and there is a benefit in knowing when your case is expected to be called. Luke indicated that we may be able to make changes in the sort order of the public calendar and the calendar being made available in ECF Central.

7. Paperless entries. The Clerk's Office is contemplating converting a few routine events into paperless events which will not require a PDF to be attached and we are interested in receiving feedback from the bar. Jim noted that a Notice of Appearance is a good example of an entry that would be suitable as a paperless entry. Jason indicated that not having to create a PDF for simple, routine entries would save time and be advantageous. He also suggested that we may want to consider making a PDF attachment optional as we have with some other events. Bill noted that Judge Killian is interested in the docket not being too wordy and that sometimes a PDF helps minimize the amount of information necessary on the docket. He also stated that version 3.3 of ECF reverts back to a PDF for the trustees' Report of No Distribution, which goes against the trend of converting to paperless entries. Over the next few months, the Clerk's Office will be reviewing the data dictionary for entries which may be suitable as paperless entries. Feedback from the Board and from members of the bar will be solicited before any action is taken.
8. Statistics. Bill reviewed statistical information on the trend of case filings this year compared with case filings over recent years. The statistics will also be shared at the Bankruptcy Bar Conference in Sandestin on September 19th. Currently, case filings are at approximately 60% of where they were during the most recent "normal" year (2004) prior to the implementation of BAPCPA. The division between Chapter 7 and Chapter 13 cases has returned to what was considered normal prior to BAPCPA with Chapter 7 cases accounting for approximately 80% of the cases filed in the district.
9. 5Alpha. The Clerk's Office will be considering implementation of a new internal case management application designed by the Bankruptcy Court in the Northern District of Texas. The application, called 5Alpha, allows courts to distribute case administrator workload throughout the district based on settings and criteria that we determine are important to us. The application includes a lot of flexibility as to whether case administrators actually "own" certain cases as they do now or whether their involvement with the cases changes on a daily basis. There was a good discussion as to the benefits of the concept of case ownership. Jim noted that case administrators who are familiar with the cases are aware of the issues surrounding the case and that follow-up on those issues may suffer without a designated case manager. He also stated that from a customer service point of view, having a case manager for a particular case is better so that parties will know who to call with questions. Jason noted that it usually wouldn't make a difference as to whether the questions are answered by a case "manager" or other designated person, so long as they are able to accurately answer the questions. Bill noted that the 5Alpha application presents us with several options as to how it is used but, for our purposes, we will probably continue to have a case administrator assigned to cases for performing certain duties including answering case-related questions.
10. ECF Central. The latest version is almost finished and will be distributed to a few attorneys for testing. Kevin will be contacting members of the Board of Advisors to set up a time for Luke to install the product to help us begin testing.

Next meeting – November 10, 2008 at 1:30 p.m. (Eastern)