

MINUTES OF THE OREGON STATE BAR DEBTOR-CREDITOR SECTION  
EXECUTIVE COMMITTEE MEETING

Saturday, February 24, 2018

The first regular meeting of 2018 was called to order at approximately 12:35 p.m. by Justin D. Leonard, Chair, at the Salem Convention Center, Salem, Oregon. Members were permitted to attend by phone. Current members attending were E. Clarke Balcom (Past Chair), Justin D. Leonard (Chair), Britta E. Warren (Chair Elect), Laura L. Donaldson (Treasurer), Margot D. Seitz (Secretary), Judge Peter C. McKittrick (*ex officio*) (by telephone), Michael Fuller (2018), Conde T. Cox (2019), Carla G. McClurg (2018), W. George Senft (2018), Erich M. Paetsch (2019), Penny Austin (2019), Julia I. Manela (2019), Alexzander C.J. Adams (2018). The Section's OSB liaison Karen Lee was also in attendance. Only Cassie Jones (2018) was unable to attend.

**Welcome to Incoming Members.** Justin welcomed and introduced our new incoming Executive Committee members as follows. Penny is a debtor-rights attorney, with her own practice located in Medford. Julia, a creditor-rights attorney (and former debtor's attorney) practicing at Watkinson Laird Rubenstein in Eugene. Erich Paetsch is a creditor-rights attorney at Saalfeld Griggs in Salem. (As the fourth member of the 2019 "class," current member Conde Cox was elected by the Section to serve another two-year term.) Lastly, the Honorable Peter C. McKittrick was introduced as the new Ex Officio Bankruptcy Judge member (replacing Judge Alley).

**Approval of Minutes.** Minutes from the Executive Committee meeting of October 20, 2017 held at the University of Oregon Law School, Eugene, Oregon were approved with one correction. A name spelling correct was noted by Judge Peter McKittrick.

**Review of Section Policies.** For the benefit of new members as well as old, Justin reviewed some current Section policies. He was recently reminded that the Section has a policy in place with the Bar, authorizing the granting of complementary Section membership (no dues required) for new admittees to the Bar, which he understands applies for the first three years of practice. Also, the Section's CLEs are currently free for all judges and also judges' staff.

Justin also reviewed the current reimbursement policies for EC members, which authorize reimbursement of mileage and lodging needed to attend EC meetings as needed, to ensure that our Section's leadership is inclusive of those in the Section who may live far from meeting locations. Reimbursement forms can be found on the Bar's website and should be submitted to the current Treasurer, Laura Donaldson.

**Treasurers Report/Budget.** Laura and Britta reported that the Section's budget may be affected by the decrease in membership. The 2017 Annual Meeting was held in at a very low cost venue (University of Oregon). As a result, the Annual Meeting inadvertently generated a net profit. On the other hand, membership dues in 2017 were lower than budgeted. The profits from the Annual Meeting essentially offset the decrease in budgeted membership dues.

**Improving the Debtor-Creditor Section.** To build comradery, Justin led the group in an ice-breaker and big-picture brainstorming exercise. After sharing some personal information,

each member also described one way the Section could improve. The following suggestions were made: (1) promote more interaction between commercial bankruptcy lawyers and consumer bankruptcy lawyers; (2) increase pro bono outreach; (3) invest in greater community outreach (e.g., law school events to educate people about the Section and more community events (e.g., host events at senior centers, community centers, prisons, schools); (4) plan additional social activities for the EC; (5) develop a handbook for the EC providing some guidelines and a historical perspective so that each officer understands the scope of his or her role, how the EC functions, etc.; (6) increase outreach within the bar focusing on attorneys who either dabble in this area or are inexperienced and let them know there are attorneys available to help them; (7) identify and reach out to the individuals who only attend the NW Bankruptcy Institute and encourage broader involvement and participation; (8) better integrate young attorneys into the Section (e.g., encourage events like coffee with the Judge’s after confirmation hearings, a prior Judge Perris and Judge Brown tradition); (9) encourage greater participation from commercial bankruptcy and creditor’s attorneys; and (10) develop and implement an overall action plan. Without taking on too much at once, Justin hopes that these suggestions can be revisited – and explored and prioritized – in future EC meetings.

**New Procedure; Committee Reports.** Justin reported that the Executive Committee will be trying a new procedure for compiling and circulating committee information this year. Rather than spend a significant portion of each meeting summarizing recent committee events, each liaison will be asked to prepare and submit a written report in advance. Justin explained that this will give the Executive Committee more time to focus the discussion on substantive issues. Liaison reports will be circulated in advance of the Executive Committee meetings.

The Liaison reports will focus on a variety of topics. In preparation for the first Executive Committee meeting of 2018, Justin asked each 2017 liaison to provide a report explaining the underlying purpose of their committee and answering a series of questions aimed at updating the EC on recent committee events. Those reports were then edited and compiled by Margot and Justin, and were distributed to EC members. Those reports are attached hereto as Exhibit 1.

Justin officially reported that new liaison positions, which were assigned in advance of the meeting. This year, Justin assigned positions in advance, based on the preferences and rankings submitted by each of the members to Justin. This way, members could have an opportunity to try a new committee, if they wished. The following chart details the 2018 liaison assignments.

<b>Committee</b>	<b>2018 E.C. Liaison</b>	<b>Chair</b>
Annual Meeting & CLE	Alexz Adams	Tom Stilley & Teresa Pearson
“Broadbrush BK” Task Force	Julia Manela (Chair)	
Consumer Bankruptcy	Mike Fuller	Mike Fuller
Legislative	Erich Paetsch	Gary Blacklidge
Newsletter	Carla McClurg	Rachel Wolfgang
Nominating	Past Chair (Clarke Balcom)	Pat Wade
NWBI	Judge Peter McKittrick	Judge Peter McKittrick
Pro Bono: Portland	George Senft	Rich Parker
Pro Bono: Eugene	Julia Manela	Steve Behrends (informally)
Pro Bono: Task Force (incl.	Justin Leonard	Heather Kemper (LASO’s

Bend, Pendleton, & Salem)		Statewide Pro Bono Manager)
Saturday Session	Cassie Jones	Loren Scott
New Lawyers	Cassie Jones	Cassie Jones
Public Education (Portland)	Britta Warren	Britta Warren
Public Education (Eugene)	Cassie Jones	Cassie Jones
Website	Laura Donaldson	Kent Anderson
Local Rules & Forms	Penny Austin	Chris Coyle
Award of Merit	Past Chair (Clarke Balcom)	Rich Parker
Federal Bar Association Rep.	Conde Cox (EC Representative)	
Donation Requests	N/A (Chair)	N/A

**Donation requests.** Professor Andrea Coles-Bjerre requested a donation of \$1,000 to support the University of Oregon’s bankruptcy moot court team. In recent history, this has been the only donation request received by the Section that fits within the Section’s policy. Justin explained that the Debtor-Creditor Section previously established a separate committee for donation requests. However, because the Section implemented a policy that it will only consider bankruptcy related donation requests and because there are so few of such requests, Justin believes that appointing a separate committee liaison / chair position from the EC does not serve much purpose. Therefore, Justin as Chair intends to serve as the liaison / chair of the Committee. Laura moved to approve donation request, Julia seconded. Carla, as an attorney for the US Trustee’s office, announced a blanket abstention from all votes in the meeting. The donation request was approved.

**Newsletter Committee.** Carla reported that newsletter editor Rachel Wolfgang is resigning. Carla asked the committee to provide suggestions regarding possible replacements. Some potential replacement ideas were discussed, including: (1) gaging the interest of recently retired or soon to be retired bankruptcy practitioners, such as Scott Palmer, Pat Wade, and Judge Dunn; (2) contacting Judge Dunn’s son who applied for this position previously; and (3) reaching out to solo practitioners and contract lawyers.

Carla also described how she has been working with Rachel to help finish the 2017 winter issue and line up articles for the 2018 spring issue of the Newsletter. Carla asked for article ideas for the next issue. Erich volunteered to write an article regarding marijuana businesses and Oregon’s new receivership statute. It was noted that this may be particularly interesting to the bar since marijuana companies cannot file for bankruptcy relief. Conde suggested that an article should be drafted regarding the status of newly proposed changes to the bankruptcy code’s venue provisions. Conde noted that Senator Elizabeth Warren would like to remove restrictions to the venue provision that may result in moving some Delaware bankruptcy filings elsewhere. There was a discussion regarding whether the Executive Committee or Debtor-Creditor Section should support that type of legislation. Although it is an area of interest to some, the committee identified legal and logistical problems with pursuing that and no action was taken.

Clarke and Mike suggested that it would be timely for someone to draft an article on the recent changes to Oregon’s FDCPA statute that became effective January 1, 2018. Additionally, Mike offered to draft an article on the Department of Education’s proposal regarding the undue

hardship standard for discharging student loan debt. Mike noted that the Department of Education is currently seeking public comment on its proposal.

**Annual Meeting Committee.** Justin provided a summary of the annual meeting survey results. A copy will be attached to these minutes as **Appendix A**. The survey generated a good response, with over 80 members providing input. The vast majority of responders preferred a meeting in September or October. Cannon Beach was the preferred location. The Annual Meeting Committee initially decided to book October 12 and 13, 2018 at Tolovana Inn in Cannon Beach. The committee asked for input before making a final decision because of an issue with judge availability. Specifically, two of the judges were unavailable and another had a potential conflict. Justin explained that one option is to focus on 2018 dates when the majority of judges are available and then select the best venue to fit those dates (likely in Eugene or Portland). An Annual Meeting at the coast could be arranged for 2019, with dates selected further in advance to avoid this issue.

A detailed discussion was held regarding the timing of the annual meeting and judge availability. Conde commented that judge attendance is a very important component of our annual meeting because it is invaluable for the Section to have the opportunity to interact with judges outside of the courtroom. Several commented on the importance of a well-structured judge's panel. Erich pointed out that the Annual Meeting Committee could put together a judges' panel with more involvement from state and district court judges who deal with debtor/creditor issues. Judge McKittrick added that, although it would be great to have as many judges in attendance as possible, there will inevitably be some conflicts to work around. Since the Judges have other conferences scheduled well ahead of time, some advanced scheduling in the future could help reduce these conflicts.

Next a discussion was had regarding alternative venues for the annual meeting focusing primarily on: (1) Tolovana Inn in Cannon Beach, (2) OSB's facilities in Portland, (3) University of Oregon facilities in either Eugene or Portland, (4) the Best Western Agate Beach Inn in Newport, (5) the Best Western in Hood River, (6) various Portland hotels, and (7) the possibility of a tribal casino hotel, which some members recommended.

Karen explained that the OSB's facilities are very limited. The OSB's largest space is a classroom style setup that can only accommodate approximately 80 attendees (without recording). Rich commented that the Best Western Agate Beach is similar in that it only accommodates 80 to 90 attendees.

Justin asked if the EC would support an October meeting in Cannon Beach this year or one of the alternative options that was discussed. The concept of a Cannon Beach meeting in October was popular given the survey results. There was also strong support for a one-day meeting in Portland with a beach location selected for 2019, as well as exploring a casino location further, such as the Grande Ronde Casino. Justin will report the feedback to the CLE and Annual Meeting Committee chairs.

**Nuts and Bolts Bankruptcy CLE.** Justin and Karen reported that the OSB is interested in putting together a Bankruptcy CLE geared towards attorneys who are not bankruptcy practitioners. They would like to work with the Section to identify topics and subject matter

experts. All other logistics will be taken care of by the bar. If the event is well attended and profitable then there could be some profit sharing between the Section and bar. Julia has agreed to chair a new taskforce to work on this CLE. To contribute, each person anonymously wrote down names of subject matter experts who are good teachers, and provided those to Julia.

**Legislative Committee.** Justin introduced former Past Chair Rich Parker, who attended this portion of the meeting to discuss proposed state legislation that would increase Oregon's exemption levels. The EC was asked if it would support such a bill. Several voiced strong concerns regarding supporting a bill since it could have negative substantive impacts on certain contingencies of the Section's membership (*e.g.*, creditor and trustee attorneys). Justin summarized the EC's decision not to take a position on the prior exemption legislation for that reason, but that it was something the Consumer Committee might support. Mike pointed out that, although he supports this bill, it is not appropriate for the Legislative Committee or Debtor-Creditor Section to take a position that disadvantages one subset of our clients over another subset. Clark suggested that an article illustrating the differences between the exemption limits in Oregon as compared to other states would be a good addition to the Newsletter. There was broad consensus that the EC supports active scholarly reporting on this topic but the EC cannot and should not take a position on a bill increasing exemptions.

**Pro Bono Award Recognition.** Judge McKittrick announced that the Multnomah Bar Association Board of Directors will be presenting its annual Pro Bono award to Judge McKittrick and the Debtor-Creditor Section Pro Bono Committee on May 2, 2018. This is a great honor for the Pro Bono Committee and reflects all of the hard work that has gone into promoting bankruptcy pro bono clinics across the state. Judge McKittrick would like to have members from the Pro Bono Committee attend and accept the award with him. He will find out more information and report at the next meeting.

**Membership Issues & the New Lawyers Committee.** Justin first reported that Cassie Jones, who was unable to attend, is involved in a number of capacities with the Section – including to see if we can restart the New Lawyers Committee. He described how membership in the Section has steadily declined in recent years. A discussion was had regarding trying to encourage greater participation the Section, and making sure that the Section includes those actively practicing bankruptcy and debtor-creditor rights law. The OSB has provided Justin with a report listing the specific members who have left the Section's ranks in the last several years, which he circulated to the EC by email with the final agenda.

One option that was discussed is reaching out to former members to determine why they left and what the Section could be doing better to retain its membership. The Court can also provide a list of frequent filers, and that can be compared to the Section's membership list. Practitioners who are filing cases but are not members of the Section could also be contacted directly.

Carla suggested that the Section offer discounts for Washington, Idaho and California practitioners who are also licensed in Oregon. Justin reported that the Section provides complementary dues for new admittees for first three years, and that the policy could be expanded. We also have a policy in place where Section provides free CLEs to judges and judge's staff. That was put in place around 2008. That too could be expanded to include new

members to the Section. In light of time, Justin will work on gathering more data and will continue the discussion at the next EC meeting.

**Future Meeting Dates.** As discussed early in the meeting, the next meeting will be held on April 12, 2018 in Seattle, WA. Additionally, a telephone conference was set for June 14, 2018 via telephone only (4:00pm to 5:00pm), if needed. Lastly, a meeting was scheduled for November 8, 2018. [This will coincide with the Annual Meeting/CLE, which was subsequently set for the following day.]

**Adjournment.** The meeting was adjourned by motion at approximately 2:40pm.

Submitted by:

Margot D. Seitz, Secretary

## Appendix A

### Committee Reports

Chair Justin Leonard circulated the following reports to all members in advance of the February 24, 2017 Executive Committee meeting.

#### Annual Meeting/CLE Committees.

The general mission of the Annual Meeting and CLE Committees is to ensure that Debtor/Creditor (“D/C”) issues – consumer and business – have a voice at the OSB and that the voices have an audience greater than any one member. Each year the committees organize the Section’s Annual Meeting and CLE event. The Annual Meeting Committee addresses the “facilities, food, and fun,” and the CLE Committee is in charge of programming, materials, and CLE credit. Historically, the CLE Committee put on other D/C-related CLEs. However, the current focus is a day-long/overnight CLE held in conjunction with the Annual Meeting.

Justin recently discussed with the chairs of the Annual Meeting Committee (Tom Stilley) and the CLE Committee (Teresa Pearson) the concept of merging the committees. The chairs did not oppose the idea, but the three agreed that the current structure with its clear delegation of duties made sense for now, and that one liaison from the EC could cover both.

Alexz Adams reports that the last meeting was on October 20, 2017 at the University of Oregon, prior to the 2017 D/C Annual Meeting and CLE. This event was the culmination of a tremendous amount of work by the annual meeting team. The main frustration reported was lack of appropriate convention hotels in Portland for future events; which leaves little options in Portland for future meetings. This was discussed but no real resolution appeared at that time other than continuing in Vancouver.

With input from the two committee chairs and some of the EC leadership, Justin Leonard issued a survey to the Section. Over 80 members responded despite the short turnaround, and a lot of useful input was provided to the Committees for this and future years. Based on the clear preferences expressed in the survey, the chairs and Justin had planned to book Tolovana Inn for October 12-13 (Friday-Saturday, approximately noon-noon). This was the earliest option that the Section was able to reserve, and there are no longer September or October options. September and October months were strongly preferred by those who completed the survey. The dates of October 12-13 do not conflict with the consumer bankruptcy regional or national conferences, but they do conflict with at least 2 of the bankruptcy judges – who all have a great deal of unavailability in September and October.

If it is decided to keep the Oct. 12-13 dates, the next EC meeting will take place immediately before, from 9:00-11:00 am on Friday, October 12 at the Tolovana Inn. Justin intends to plan a dinner in Cannon Beach on Thursday, October 11 for EC members to gather and socialize, since most EC members will want to drive over the day before. As a reminder, EC members’ mileage and one night’s lodging will be reimbursed.

Alexz Adams was the liaison last year, and he will continue in that role this year for both of the Committees.

## **Consumer Bankruptcy.**

The mission of the Committee is to gather those who are new to debtor/creditor law or have been practicing for years (including but not limited to Portland and Eugene bankruptcy judges, U.S. Trustees, IRS/ODR, debtor lawyers, creditor lawyers) to have meaningful dialogue about upcoming events, case law, local rules, forms, and issues affecting consumer bankruptcy practice in a collegial environment.

The last meeting was January 11, 2018. The primary topics discussed at last meeting were: (i) Judge Hercher thanked everyone for their patience during his first year as judge; (ii) Chris Coyle discussed the new Chapter 13 plan and attorney compensation issues in OR vs. WA, local rules; (iii) Charlene reminded that judges changed assignment, watch pleadings, and presented the new payment system through the bankruptcy court website and how it works; (iv) Rich discussed Judge Hess' death in October, 2017, next NWBI dates, NACBA dates, PLF publication that just came out discussing items attorneys should watch out for with receiverships, SB398 (Datamatch for Oregon Dept. of Revenue), HB3056 HOA liens and when an assessment is a lien; (v) Judge Brown announced IRS changing their tax tables and urgency to make sure clients are aware so taxes not due, tax tables may not be correct as IRS tries to figure things out; (vi) Jeff Werstler IRS discussed a) revoke POAs for old clients, b) lien attachments to exempt assets in bankruptcy and when to work deals with the IRS; (vii) Naliko (Chapter 13 Trustee, Eugene) discussed software not picking up important pieces of new plan form; and (viii) Jonas V. Anderson, Acting U.S. Trustee discussed new fees in CH11 cases, updates on forms.

The next meeting will be April 5, 2018 at 4:30 pm, U.S. Bankruptcy Court, Portland and Eugene Bankruptcy Court by teleconference, or via meet-me telephone line. Michael Fuller is serving as the chair, and Laura Donaldson and Rich Parker help out to lead the meetings when Mike is teaching his class at Lewis & Clark. Mike will be the 2018 liaison.

## **Legislative.**

The mission of the Legislative Committee is to analyze legislation proposed by others for an effect on D/C practice; propose law improvement legislation or amendments to improve the practice of law. The Committee does the foregoing without being politically involved or taking solely a debtor or creditor stance on a particular issue, but remaining neutral on debtor/creditor issues. The committee is made up of both debtor and creditor practitioners. It occasionally will support a bill or oppose and testify against a bill with EC and Public Affairs approval. Additionally, the Committee occasionally seeks approval to sponsor a bill where we see a need for law improvement.

The last meetings were January 31 and February 7. The Committee discussed the list of bills introduced which relate to the practice of debtor/creditor law that has been provided by OSB Public Affairs and the deadlines for any section-sponsored bills for the 2019 session. There are not many bills of this sort this session. The Committee holds a weekly call-in telephone conference every Wednesday at 5:00 pm during session, unless they circulate an email that there is nothing to meet about.

Chair Gary Blacklidge and the 2017 liaison Mark Comstock both contributed to this Legislative Committee report. Erich Paetsch will serve as the 2018 liaison. (Gary noted that this



is his second time as chair over a number of sessions, and he would be pleased if someone volunteered to chair the committee for the 2019 session. He would continue to serve on the committee and could offer some guidance. Please let Gary or Justin know if you are interested in serving, or know who might be.)

### **Newsletter**

The mission of the Committee is to connect D/C Section members with one another by sharing news of interest; recognizing the accomplishments and contributions of members; and summarizing significant cases and legal developments.

The last meeting was on November 3, 2017. This was to be an Editorial Board meeting to edit issue #2 of 2017. The Newsletter fell behind schedule due to delays caused by untimely submissions and challenges in Rachel's personal schedule.

Liaison Carla McClurg recently learned that newsletter editor, Rachel Wolfgang will be resigning. The EC will be discussing options for replacing Rachel, as well as ideas/volunteers to catch up on the Newsletter issues.

Carla has agreed to continue to serve as liaison to the Committee during this transition period. These issues will be discussed further in the EC meeting.

### **Nominating.**

The mission of the Nominating Committee is to locate and recruit individuals to serve on the EC. The Committee solicits names from the EC and, in the past year or two, has also solicited candidates via email from members of the Section (to nominate or self-nominate interested individuals).

The past chair serves as chair and liaison of the committee. The next meeting has not been scheduled. Meetings are scheduled by the new subcommittee. 2017 Past Chair Rich Parker reports that the committee generally converses by phone and email about possible candidates. The process should begin in the summer so that a slate is ready for notice prior to the Annual Meeting. The Committee has already started its work toward both general and geographical parity. Past Chair Clarke Balcom will serve as chair and liaison.

### **NWBI.**

The mission of the Committee is to organize and run the annual Northwest Bankruptcy Institute conference.

Past liaison George Senft reports that the program for the next NWBI has been planned and announced. It will take place on Friday, April 13 from 8:30 am-5 pm and Saturday, April 14, from 9-noon, at the Renaissance Seattle Hotel, 515 Madison Street, Seattle, WA.

Karen Lee is interim chair of the Committee and Judge McKittrick, who is on the committee, will serve as our liaison this year.

## **Pro Bono Committee (Portland) and Pro Bono Task Force.**

The mission of the Pro Bono (Portland) Committee is to give assistance to Legal Aid, meet with Legal Aid and plan clinics, work on the budget, wrangle volunteers for the clinic or individual meetings, schedule the judges' reception and provide guidance to the EC on what is needed to make the program work.

As EC Members, you are all invited to the upcoming CLE and Judge's Reception on March 8, 2018. Invitations have been sent out to clinic volunteers. The free CLE is "Representing Clients with Diminished Capacity" with Jonas Anderson and Mark Johnson Roberts, followed by a reception.

The Portland clinic closed approximately 200 cases in 2017. This is in addition to the almost 200 cases, which remain open, being worked on by volunteer attorneys. Volunteer attorney attendance has been a bit lower over the past several months, so encouragement in this arena would be fantastic.

Rich Parker is the chair, and George Senft, who is a long-time member of the Portland Committee, will be the 2018 liaison.

The Section also works with Legal Aid Services of Oregon to sponsor newer programs as follows:

**The Salem LASO** office held its first Bankruptcy Clinic on February 22. Judge McKittrick taught the inaugural bankruptcy clinic class and was amazing. The first clinic had five volunteer attorneys (Kevin Swartz, Keith Karnes, Marc Gunn, George Price and Kevin Rank). For the first clinic, each attorney met with one client. It went off seamlessly thanks to an amazing planning committee (Judge McKittrick, Vanesa Pancic, Justin Leonard, and Todd Trierweiler). The clinics will be held every other month on the last Thursday of the month from 6:00-8:00pm. LASO will aim to have approximately 10 clients at each clinic, and at least five attorneys.

**The Bend Bankruptcy Clinic:** The Bend Bankruptcy Clinic is thriving. The clinic normally has approximately 10-15 bankruptcy cases in progress. There are three attorneys (Rex Daines, Andrew Harris and Brian Hemphill) who take direct referrals for the bankruptcy cases as well as running the bankruptcy class quarterly. At this point the need is being met. The office may consider doing some recruitment to further any growing need in their communities.

**The Pendleton Bankruptcy Clinic:** The Pendleton Bankruptcy Clinic currently only has two regular volunteers (Christine Wallace and Wade Bettis) who normally take 1 case at a time. This means that the clinic capacity is low. This clinic could use some reinvigoration by way of recruitment. Even adding 1-2 additional attorneys would have a huge effect in the rural communities served by this clinic. Please let Justin know if you have suggestions.

## **New Lawyers.**

The mission of the New Lawyers Committee is to assist new lawyers with the transition to practicing D/C law in Oregon.

Currently there is no formal new lawyer committee within the D/C Section, so there have been no meetings. Cassie Jones was made “Chair” of this committee because of her involvement in the Oregon New Lawyers Division Executive Board. It makes sense that she is also the liaison to that Bar Group and convey ways in which the Section may be able to support or co-sponsor events targeted toward new lawyers.

Cassie is currently the only official member of the Committee. As such, there is no next meeting scheduled and likely won’t be one without input from the Executive Board on what purpose this “committee” should serve.

The ONLD is in the early stages of planning a Financial Literacy Fair for new lawyers (and potentially law students) which will occur in the fall. The idea is to have presenters on varied topics such as student loan repayment, budgeting, planning for partnership, retirement planning, etc. Cassie thinks it would be great if the D/C Section could co-sponsor a social or support the effort in some way (perhaps with speakers, etc.). Ideally, there to be a substantive CLE involved that could be sponsored by the Section. The EC will discuss this at our April meeting.

### **Saturday Session.**

The mission of the Saturday Session Committee is to hold an annual event on a Saturday during the winter which brings together the court and practitioners to discuss problems and exchange ideas about potential improvements to practice before the Oregon bankruptcy courts.

The committee has met multiple times by phone since October 2017 to plan the 2018 Saturday Session being held on February 24. Meeting dates were November 21, December 21, January 20, and February 7 and 21. Topics included discussion topics for the event and potential moderators and facilitators.

Loren reports that the event seems to be running smoothly and is very focused on continued open discussion sessions, rather than CLE presentations. The Committee is always open to suggestions from the EC.

Loren Scott has served as chair since 2008. Cassie Jones will serve as liaison for 2018.

### **Public Education (fka CARE) - Portland.**

The mission of the Public Education Committee (Portland) is to provide volunteer opportunities for members interested in teaching financial literacy (including student loan material that was developed by the Committee, primarily through the hard work of Michael Fuller and Ward Greene) in schools and other local organizations.

On December 17, 2017, Financial Beginnings, a local nonprofit focusing on “teaching individuals how to play an active role in their financial well-being,” presented its required training program during the last meeting. The training session took about an hour, after which members were granted access to Financial Beginnings’ online scheduling program which allows users to arrange the date, time, course, and school (including elementary, middle school, and

high school) for volunteering. The goal is to use this online database and scheduling program to facilitate volunteer opportunities among members.

Britta Warren is serving as the chair of the Portland Public Education Committee in 2018, as well as liaison. She is interested in soliciting a co-chair.

### **Public Education (fka CARE) - Eugene.**

The mission of the Committee (Eugene) is to support and provide opportunities for the education of the public relating to D/C legal issues.

Cassie reports that she has been having several one-on-one meetings with folks to determine the future of our program. She has a list of new volunteers and reports that they have decided to continue with the CARE program rather than switching to other public education options. She is currently creating a presentation template from the CARE materials. The next step is to generate a new list of teachers/schools who want to have our program. The goal is to be ready to present the new materials this fall and team up with the UO Law school to do so.

Cassie will be checking in with Andrea Coles-Bjerre this spring about the law school involvement. She will also be training both law students and lawyers in the new CARE program in August/September.

Cassie Jones will continue to serve as the chair and liaison of the Committee in Eugene.

### **Website.**

The mission of the Committee is to maintain and improve the Section website.

For a number of years, Kent Anderson has effectively served as the Committee. He reports that other lawyers have expressed interest in serving on the committee, but when he has contacted them for help with the site, they have generally failed to respond to his requests. If anyone is willing to help with design and overall updating of the website, let Ken or Justin know.

Kent believes that the EC has previously authorized him to issue user names and passwords for various webpages on the site, when he is satisfied that tools were available from the Bar to limit users to specific pages and other security issues have been properly addressed. Since tools are now in place, he will document calendar entry and committee page modification and issue login credentials to the committee chairs.

The Section still purchases website services from Paul Tichy at Spotted Horse, and Kent strongly recommends we continue that contract. Kent reports that it is cheaper than the Bar, and Paul has been very good about taking care of things when it is inconvenient for Kent to do so. Laura Donaldson will be liaison/czar for 2018.

### **Local Rules.**

The mission of the Local Rules Committee is to consider, develop, and propose changes to the Oregon Bankruptcy Court Local Rules and Forms. The Committee works closely with bankruptcy judges and court staff. Additionally, the committee reviews legal changes (*i.e.*,

changes to the Code, Bankruptcy Rules, etc.) to ensure that Oregon's Local Rules and Forms are current and consistent with other laws. The Committee also elicits suggested rule changes from members of the Bar. For example, the committee often discusses changes proposed at the Saturday Session.

Meetings took place on November 8, 2017, January 10, 2018, and February 14, 2018. As always, the Committee discussed potential rule and form changes at these meetings. So far, the Committee has developed and included three rule changes for inclusion in its 2018 "final report." Specifically, changes will be proposed to Rule 1006-1(c) dealing with dishonored checks. The change clarifies that the Court Clerk has the discretion to require a party who has had a check or draft returned for insufficient funds or another valid reason to require that party to make payments by a means other than a personal check. This change deletes some language that would otherwise require the clerk's office to record the name of the drawer of the check.

The clerk's office does not record the name of the drawer of an NSF check to enforce this requirement. For example, if a debtor's installment fee payment made by check is returned, but the check was written by the debtor's mother, the clerk does not (and does not wish to) track that the mother may not tender personal checks but the debtor may. Additionally, the clerk's office is preparing to accept NSF fees via debit card and credit card, therefore we want to remove the restriction of "cash, cashier's check, or money order."

The Committee has also developed a change to Rule 4003-2 dealing with lien avoidance under §§506(d)/1322 or 522(f). The change clarifies that any default order arising from such a motion must be lodged under LBF 717.07. It also updates the rule to follow the pattern of LBR 4003-2(a) (the updated rule cites an appropriate notice of motion (*i.e.*, LBF 1317), motion (*i.e.*, LBF 1317.3) and order (LBF 1317.5)).

Lastly, the Committee is including in its final report a change to Rule 7056-1 regarding motions for summary judgment. Specifically, the rule change deals with subsection (c)(1) dealing with concise statements of material fact (CSMF). The rule change simply updates LBR 7056-1 to reflect current practice of using numbered paragraphs and making reference to those numbered paragraphs rather than "page/line" citations (consistent with LBR 9004-1(a)(2) making line numbers optional). To add emphasis, the proposed rule specifies that these citations and references must be made "with particularity."

In the past three meetings, the Committee has also discussed about 15 additional potential rule and form changes. Some of those have since been tabled for 2018. To provide a sampling, the Committee has discussed or will continue to discuss changes to the following: LBF 2015-1(b)(1) dealing with the treatment of 2015 Reports in Chapter 11s (considering requiring filing of redacted DIP bank account statements); LBR 9011-4(b) dealing with maintaining wet ink signatures for certain filings (*e.g.*, petitions, schedules) and how that differs from other filings which only require an attorney to maintain scanned signed copies; practices and rules surrounding calendaring and noticing to potentially proposed changes along the lines of the practice in Western Washington (self-calendaring for certain types of hearings); rules regarding amending plans or schedules and providing redlines with filing of same; potential inclusion of conduit plan language (LBF 1300.17) (tabled discussion given lack of group pushing change other than Chapter 13 Trustee's office); LBR 5077-1 dealing with proposed procedures for the preparation and introduction into evidence of a transcript from a non-court proceeding such as a

deposition, Rule 2004 examination, or meeting of creditors (*e.g.*, potentially restricting certain parties from preparing transcripts).

The Committee typically meets on the third Thursday of each month. The next meeting is scheduled for Wednesday, March 14, 2018. Meetings are held at the Portland Bankruptcy Court's 8<sup>th</sup> Floor conference room with a conference bridge to the Eugene Bankruptcy Court 3<sup>rd</sup> Floor conference room. Additionally, interested folks can participate by phone.

If the EC or any individual members have proposed rule changes, Margot would be more than happy to discuss those with the Local Rules Committee. Chris Coyle is the current chair. Penny Austin will serve as the 2018 liaison.

### **Award of Merit.**

The mission of the Committee is to select one or two members each year who are worthy of being singled out for their contributions. The Committee is made up of the past chairs of the Section.

Meetings should start in early summer, so that selections can be made and persons advised in time to invite family for the annual meeting. Email and phone call meetings are scheduled with all past chairs who are interested in participating. The EC may want to consider providing input to refine the qualifications for the award.

Rich Parker will be the 2018 chair, and as Past Chair, Clarke Balcom will be the 2018 liaison.

### **Federal Bar Association.**

Conde Cox serves as Liaison/Representative to the FBA. He reports that the FBA is a national organization. Each federal District has its own Chapter; hence, ours is the FBA-Oregon Chapter. The organization sponsors many events during the year, including a bi-annual CLE conference usually held at OMSI (there will be no 2018 conference, as we held one in 2017 which was heavily attended), regular CLE luncheons featuring a wide variety of presenters (including one scheduled for January in Eugene featuring Theresa Pearson and Mark Comstock on the new Receivership Code), an annual dinner at the Sentinel, and other events and programs.

Also, the FBA-Oregon Chapter issues a quarterly newsletter to its members, and, unlike the OSB D/C Section, the FBA website and its newsletters are available to everyone at <https://oregonfba.org/newsletters/>. (In the last 12 months, Conde authored two articles about bankruptcy court jurisdiction which appeared both in the FBA-Oregon Newsletter as well as in the OSB D/C Section Newsletter as reprints (because so few D/C Section members are aware of the FBA, and so few are actually FBA-Oregon members).

The FBA-Oregon has two sister organizations, the USDC Historical Society and the Ninth Circuit Courthouse Historical Society, which each separately sponsor two or three annual events, including an annual summer picnic at Judge Leavy's (9<sup>th</sup> Cir.) farm. In order to be a member of FBA-Oregon, a lawyer must register with the national FBA office, as registration for the local Chapter only is not available. In part by reason of increasing participation by the local bankruptcy bar and bench, there are more and more bankruptcy practitioners involved in the

local FBA-Oregon activities, including active participation by Judges Hercher and McKittrick, both of whom often attend the monthly FBA-Oregon board meetings.

Conde recommends that the EC should encourage D/C Section members (or at least one per firm) to join the FBA. In many other Districts, the bankruptcy bar plays a much greater role in FBA local chapters than our bar does, although the activities of Tom Stilley, Conde Cox, and our local bankruptcy judges have helped recently to increase the connection between the FBA local chapter and the local bankruptcy bar.

Nadia Nahab at Stoll Berne is the current FBA Oregon President. Susan Pitchford, Chris Roy, and Laura Salerno Owens are all also very active and are very aware of increased bankruptcy bar and bench participation in the FBA. Conde will continue as representative and liaison from the EC.