

**Oregon State Bar Debtor-Creditor Section Local Rules and Forms Committee  
Meeting Minutes – January 9, 2019**

**Next Meeting:** February 13, 2019 at 3:00 p.m.

**Attendees:** Chris Coyle, Judge Renn, Judge Hercher, Charlene Hiss, Ted Piteo, Arnold Wuhrman, Mike Fuller, Natalie Scott, Penny Austin, Jeff Thompson, and Collin Cole

**Note:** See the agenda for additional details on the following matters.

**Agenda Item 2: Claim Objection Proposal (LBR 3007-1)**

The committee decided to table work on a new proposal addressing claim objection issues until this summer.

This led to a more general discussion regarding policies on how long tabled items should be left on the agenda. It was agreed that tabled items should not stay on the agenda in perpetuity if no one plans on actively working on them, and it was suggested that January meetings would be a good time to review such items.

To that end, after further discussion, all previously tabled items (items 17-19) were removed from the agenda.

This discussion then turned towards other committee procedural issues. It was noted that it is not the best practice to wait until September to present all proposals for the year in a single package.

Going forward, the committee will endeavor to take a more piecemeal approach in which items are presented to the court as soon as practicable (i.e., once a consensus has been reached—this will allow the judges to consider the ideas in general before final edits on drafts are completed down to the letter). This approach will give the judges more time to review and respond to each item which will, in turn, lead to fuller communication between the committee and the court regarding individual proposals.

**Agenda Item 3: LBR 9013-1(b)(2) / LBR 2002-1(d)(1) Notice of Motion Cross-Reference**

Committee agreed a cross-reference to LBR 2002-1(d)(1) should be added to the newly published LBR 9013-1(b) because the new noticing requirements in LBR 9013-1(b) expand the impact of LBR 2002-1(d). It was noted that the cross-reference does not entail any substantive changes. Jeff Thompson to draft redline update of the rule with cross-reference.

#### **Agenda Item 4: LBR 3001-1(c)(1) Transfer of Claims Filing Requirements**

LBR 3001-1(c)(1) requires that the address of the transferor be included on the first page of any evidence of transfer of claim for all claims on which a proof of claim has been previously filed.

It was noted that this requirement is unnecessary as transferor addresses will already be on file from the proof of claim and is inconsistent with the format the national transfer of claim form (OF B 2100A) which does not include a field for transferor addresses. With this in mind, the committee agreed that LBR 3001-1(c)(1), in its current form at least, should be stricken from the local rules.

The committee then discussed whether the rule should be deleted in its entirety or replaced. It was suggested that the rule could be amended to require the use of OF B 2100A or, alternatively, require that all information provided for in the form be included in the evidence of transfer document.

As the best practice depends, in part, on CM/ECF functionality, Charlene Hiss and Jeff Thompson will research the issue further and report back to the committee.

#### **Agenda Items 5 & 6: Ch. 13 Attorney Compensation/Fees & Disclosures (LBF 1300.17/1305)**

As a preliminary matter, it was agreed that agenda items 5 and 6 are closely related enough that they should be combined into a single action item. However, pursuant to the discussion in agenda item 2, it was noted that any discrete, actionable items should be circulated at the first practicable opportunity.

It was also noted that work on this item should focus on providing greater consistency regarding disclosures in both format and content. The disclosure of filing fees was singled out as something that should be accounted for in any amended rules or forms.

LBF 1305 in particular was identified as a form that could be amended to include a spot to disclose filing fees.

Working group of Penny Austin, Collin Cole, Chris Coyle, Laura Donaldson, Todd Trierweiler, and Ted Piteo to find a time to meet and push this item forward.

#### **Agenda Item 7: "Pre-Signed" Orders**

Collin Cole had previously compiled all relevant forms. With this information in mind, roughly two categories of this type of order were identified:

- Orders regarding generally non-contested issues that function to combine two forms into one. A substantial number of such orders are requests to employ various parties.
- Orders on motions that initiate contested matters and cannot be decided ex parte.

It was suggested that one approach to this issue is to differentiate orders based on whether they are subject to FRBP 2002 noticing requirements or FRBP 7004 noticing requirements.

The committee discussed LBF 750.3 and LBF 759.5 in particular. It was noted that the former is currently being used by trustees and should therefore remain in its current format, and it was agreed that the latter is necessary and should likewise be preserved.

Working group of Judge Hercher, Collin Cole, and Chris Coyle to continue work on this item.

#### **Agenda Item 8: Settlement Conferences.**

Natalie Scott and Mike Fuller agreed to join working group for this item. Chris Coyle to bow out of this to focus on other items.

#### **Agenda Item 9: Signature Requirements re: FRBP 1008 Documents.**

Working group of Ted Piteo and Jonas Anderson have worked on this and will continue to do so in the future, but the issue is currently on hold pending the partial government shutdown and reopening of the United States Trustee's office.

#### **Agenda Item 10: Instructional Forms**

Committee identified some of the issues to be considered in drafting instruction forms including:

- whether form-to-form references should be included in captions,
- whether instructions should be included in the form at issue or whether the form should reference instructions in a separate form, and
- other possible format conventions.

Working group of Charlene Hiss and Arnold Wuhrman had previously met and drafted a comprehensive inventory of issues to be addressed by instructional forms. They will draft a proposal for instructional forms regarding relief from stay as a first step.

The results of this work will inform best practices going forward.

### **Agenda Item 11: Wage Order Termination**

Amended versions of LBF 1351E and LBF 1351P had previously been drafted in order to rework the forms such that it is clear from their face whether subsequently filed wage orders replace or supplement previously filed orders.

Jeff Thompson to reach out to working group of Chris Coyle, Naliko Markel, and Wayne Godare in order to move this item forward.

### **Agenda Item 12: Withdrawal of Reference**

Judge Renn, Judge McKittrick, Jeff Thompson, and Charlene Hiss had previously met with district court representatives to work on coordinating rules in both courts regarding withdrawals of reference. This entailed identifying and addressing gaps regarding the specifics of filing locations and timing.

Judge Renn, Charlene Hiss, and Jeff Thompson to continue work on drafting rules to fill these gaps.

### **Agenda Item 13: Notice of Death**

Ted Piteo to complete work on a new LBF drafted by Chris Coyle addressing this issue.

### **Agenda Items 14, 15, and 16: Rule Reduction Review / Language Standards**

No action on these regular review items.