

JUDICIAL LIAISON

BPSA

Bankruptcy Practitioner Service Announcement

SPRING 2016 EDITION

1. Judicial Liaison: Striving to Improve the Practice One Problem at a Time

For many years, the Bankruptcy Judicial Liaison Committee has strived to address problems experienced within the bankruptcy bar. We meet quarterly to review issues raised by practitioners, trustees and the Court, and attempt to solve the problems to the best of our ability. To the extent a problem cannot be solved, we at least attempt to communicate confidentially with the party suggesting the issues as to what the committee discussed and how they might seek help elsewhere or otherwise address the issue.

The discussions of the committee are confidential, and so all members are able to speak their minds regarding topics **they** face every day. You are encouraged to pass on any issues or concerns to the committee so that we might help to resolve the problem.

2. UPDATE: No Rotating Judge from Cincinnati

During late 2015 and early 2016, you may have heard that the bankruptcy judges for the Southern District of Ohio were discussing the possibility of having a judge from Cincinnati be assigned cases in Columbus. The purpose of the plan was to lessen the case load on the Columbus judges and even out the case load experienced between the different judges in each division.

Due to a variety of reasons, including the continued decrease in case filings, the judges have determined that the rotating judge is not needed at this time. The project has been cancelled and no judge from Cincinnati will be rotating into the Columbus docket.

3. Hearings during Columbus City Events

The topic was recently discussed at a Judicial Liaison meeting that practitioners would like the Court and UST to avoid scheduling hearings and 341 meetings around major events in Columbus. For example, the Arnold Classic in March and Red White and Boom in July create major parking problems near the Bankruptcy Court. Parking during those events often skyrockets to \$25-30 per day. The judges and UST were receptive to the request, but cautioned that it may not always be possible to schedule around these events, especially for regular confirmation dockets. Moreover, practitioners are advised to be vigilant in warning their clients and perhaps arranging alternate transportation if necessary and leaving early to avoid parking issues during those events.

CHAIR CONTACT INFO

Outgoing Chair: **Jim Coutinho**
Allen Kuehnle Stovall & Neuman LLP
coutinho@aksnlaw.com

Incoming Chair: **Laura Nesbitt**
The Nesbitt Law Firm
laura@nesbittfirm.com

COMMITTEE MEMBERS

- **Hon. Charles M. Caldwell**
- **Hon. John E. Hoffman, Jr.**
- **Hon. C. Kathryn Preston**
- **Dr. Mecca S. Carter-Marshall**
Deputy in Charge of Columbus
- **Aggie Orozco**
Clerk Supervisor
- **MaryAnne Wilsbacher**
Assistant U.S. Trustee
- **Frank Pees**
Chapter 13 Trustee
- **Faye English**
Chapter 13 Trustee
- **Katy Brewer**
Wood & Brewer, LLC
CEC President
- **Amy Gullifer**
Cannizzaro, Bridges, Jilisky & Strengh
- **Matt Schaeffer**
Bailey Cavalieri LLC

*Thanks to the following members
whose terms recently expired!*

- **Dan Swetnam**
Ice Miller LLP
- **Wendi Henderhan**
Henderhan Law
- **Fred Ransier**
Vorys, Sater, Seymour and Pease
Chapter 7 Trustee

4. Preparation for *sua sponte* hearings

Quick Summary: When one of the bankruptcy judges sets a motion or application for a hearing *sua sponte*, be prepared to present your entire case, backed by evidence, unless the judge specifically limits the issues in the order setting the hearing.

Detail: When one of the judges reviews a motion or application, regardless of whether there are any objections, they will occasionally set the matter for a hearing *sua sponte*. Generally, the notices of the hearings contain a date and time for the hearing and an indication of the document that is going to be heard, but the notices generally do not contain any information about the substance of the Judge's focus.

A practitioner contacted the Judicial Liaison committee with a concern about how best to prepare for these *sua sponte* hearings. The attorney wanted to know if there was a way to better ascertain what specific issues the judges were looking at so as to be fully prepared for those issues and avoid unnecessary preparation.

The issue was thoroughly discussed before the Judicial Liaison Committee. The judges cautioned against the concept held by some attorneys that the simple lack of objections to a motion or application means that an order should be granted. That is, despite the lack of objections, the motion or application must still stand on its own with proper statutory or rule-based authority backed by the appropriate evidence. A judge may have concerns about the substance of the relief requested and need a hearing to address those concerns. It is not always possible to notate an order with all of those concerns, nor would it necessarily be proper for the judge to advise counsel on how to present the case.

The judges are cognizant of the time and effort needed to prepare for a hearing, but have advised the Judicial Liaison committee of a "default response" to a *sua sponte* order: prepare to present your motion or application, with the appropriate evidentiary support, unless the Court otherwise limits the scope of the hearing in the order setting the hearing. Further, the judges indicated that it is inappropriate to call and ask the law clerks for more information about what the respective judges expect to hear (or want put into evidence) at the hearing.

5. Helping the Clerk's Office Help You

At the most recent Judicial Liaison meeting, the committee discussed a possible error that had occurred in the Clerk's office's processing of a matter. Rather than focus just on the specifics of the error, the committee also discussed how to work with the Clerk's office if there is an error in your case.

The Clerk's staff does its best to uniformly apply its policies and practices to all cases, but mistakes might be made. When there is a mistake in a matter, or there is an issue related to an action by the Clerk's staff, you should first contact the Case Administrator assigned to the case. If the Case Administrator is unable to assist, the matter can be referred **to the Case Administrator supervisor Aggie Orozco. If further escalation is required, the matter will be discussed with the Deputy in Charge, Dr. Mecca S. Carter-Marshall.**

Although Judicial Liaison can often be a forum to discuss these issues, the best way for the Clerk staff to address a problem is to obtain the specifics of the case so the matter can be researched. The confidentiality of the Judicial Liaison process makes it hard to address the problems generally, and so it may be better to address any issues with the Clerk's office directly by providing them specifics. The Judicial Liaison Committee is always available to discuss problems that come to an impasse.

6. New Confirmation and Motion Calendar for Judge Caldwell Starting in 2017

Judge Caldwell has recently re-tooled his docket and calendar to allow for all confirmations and motions to be heard on one day each month, as opposed to the two days as currently scheduled. This new schedule will start in January 2017, and will consist of the following:

9:00 AM	English Pre-Confirmation Conferences
10:00 AM	English Confirmation Hearings
11:00 AM	Motions (English Ch. 13 Motions, Relief from Stay Motions, and Ch. 7 Motions)
1:00 PM	Pees Pre-Confirmation Conferences
2:00 PM	Pees Confirmations
3:00 PM	Motions (Pees Ch. 13 Motions, Relief from Stay Motions, and Ch. 7 Motions)

For 2017, the hearing dates are as follows (all Mondays):

January 9	May 8	September 11
February 6	June 12	October 23
March 13	July 10	November 6
April 24	August 7	December 11

7. Debtor Calls to Court, UST and Trustees

The Court, Office of the United States Trustee, and the chapter 7 and 13 trustees often receive phone calls from debtors. Often the debtors are confused as to whom to call with problems, and because they receive so much paperwork from different parties, they may think it is appropriate to call the Court, UST or trustees directly. When they do, the Court, UST, or trustees advise them that they cannot give legal advice and that they should call their attorneys.

This topic came up for discussion at the most recent Judicial Liaison meeting, and the committee wanted to ask the bankruptcy community to continue to advise clients of where to direct their questions: to the attorneys. Due to the volume of calls received, any reduction through a redoubled effort on this front will be appreciated.

8. Expiring Judicial Liaison Member Terms & New Chair

Please help us in extending a ~~(removed give)~~ THANK YOU to Wendi Henderhan, Dan Swetnam, Fred Ransier, and Jim Coutinho. Their two-year terms on the Judicial Liaison committee recently expired, and we appreciate the effort that they have put forth in making the last two years of committee work a success. Thank you to everyone that has contributed topics to the committee recently.

Laura Nesbitt will be taking over for Jim Coutinho as the new chair of the Judicial Liaison Committee. All further inquiries and topics can be directed to her. The committee has several openings for next year, including a position for a commercial practitioner, a consumer practitioner, and a chapter 7 trustee. If you have any interest in serving on the committee, please contact Laura Nesbitt.

TOPIC REQUESTS

The next Judicial Liaison Committee meeting is September 14, 2016. Anyone may suggest a topic for discussion. Please send topic ideas to Laura Nesbitt or any other committee member.