

# UNITED STATES BANKRUPTCY COURT

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Jean Rolfs  
Clerk of Court

## Western District Bar Advisory Committee Minutes February 26, 2008

*In attendance: Chuck Tucker, Joyce Babin, Richard Cox, Jill Jacoway, Theresa Pockrus, Jeff Conner, Stanley Bond, Don Brady, Kathryn Stocks, Jack Dickerson, Marc Honey, James Sprott, Jean Rolfs, Phil Principe, and Brenda Shipley. Unable to attend: Karen Waldroff, Lee Kuykendall, and John Blair*

1. Chuck Tucker, Assistant United States Trustee, made several announcements regarding upcoming changes and programs at the UST office.

Mr. Tucker passed out a "Notice of Revised Chapter 11 Quarterly Fee Schedule." Mr. Tucker also passed out a Notice regarding two recent proposed rules, which were published for public comment in the Federal Register. The rules concern procedures and criteria for approval of credit counseling agencies, and final reports filed by trustees.

Mr. Tucker discussed how the procedures in his office will change regarding Motions for extension of time to file schedules in consumer chapter 7 cases, and that in the future, these motions will require the attorney to show cause of the need for the delay, or the AUST will object and ask the court to have a hearing. Mr. Tucker stated that debtor audits will be temporarily discontinued due to lack of funding by Congress.

2. Phil Principe gave an overview of the current system in place regarding payment of filing fees in installments and changes being considered.

Paragraph II.1. of General Order 26 **currently** governs the method by which installment payments are made in Arkansas. It provides as follows:

All installments of the filing fee must be paid in full on or before the date first set for the 341(a) meeting. The filing fee must be paid in full before the Debtor or Trustee makes any payment to the Debtor's attorney. The Court, after notice and a hearing, shall approve or disapprove the Debtor's application to waive payment of the filing fee as soon as practicable after the case is filed.

The Judges are considering modifying Paragraph II.1. of General Order 26. *See In re Murphy*, 4:07-bk-12390 E, *Order* (Docket Entry 28) at \*2 n.2 (Bankr. E.D. Ark. Aug. 17, 2007).

Bankruptcy Rule 1006(b) provides that the filing fee may be paid in installments and that the number of installments shall not exceed four. The Rule also provides that the final payment shall be payable no later than 120 days after the filing of the petition. For cause, the court may extend the time, provided that the last installment is paid not later than 180 days after filing the petition.

Before making changes, the Judges are actively soliciting input as to whether 1) any change is desirable and 2) if so, what suggestions you may have for changes.

To provide background information, the following documents were provided: Current General Order 26, Judge Evans' Order *In re Murphy*, General Order 31 which is a possible Modification to General Order 26, and Possible Modification to Fee Schedule.

Following a spirited debate regarding the pros and cons to both the debtor and the debtor's attorney of the current system of having the filing fee paid in full by the first meeting, and already allowing for a Motion to extend time to pay the Filing Fee, which the Judges typically grant, as well as Rule 1006(b) provisions to allow 120 days, a vote was taken. One person voted to keep the current system in place. Six people voted to change the system to proposed General Order 31, and four persons' vote was "don't care."

3. Jill Jacoway presented an issue regarding listing of personal and corporate debtor names on discharge orders, and her reasons for listing those names, and the effect when these names show up on the discharge order from the court. When an individual files personal bankruptcy and lists corporations which the individual debtor operated (e.g. Keith Roberts, 07-71792), and the discharge gets entered, the name of the entity is on the discharge. Jill asked if that could be changed in ECF so that only the individual's name is listed on the discharge order, while leaving the entity on all other notices. The answer is that no, the names originally entered as parties on the case will show up as parties on the case on all notices, including the discharge order.

A discussion ensued regarding how to properly notify creditors of the variety of entities, while also filing a petition with proper parties listed. One suggestion was to list the other entities on Schedule B. Jeff Conner suggested that after entering the name of the person petitioning for bankruptcy, that the petition then also disclose that person was (for example) the former President of ABC Corporation, and sole shareholder (as opposed to listing the business as a DBA).

4. Jack Dickerson proposed the establishment of a Debtor Pro Bono Panel and passed out a 2-page proposal.

A discussion followed regarding current options available for debtors: Legal Aid, AVEL, VOCALs. It was suggested that bankruptcy attorneys be more proactive in making sure they sign up with the current agencies who refer clients to pro bono attorneys. The committee will discuss this more at their next meeting. Those who are interested in pursuing this option will contact Mr. Dickerson following the meeting.

5. Jack Dickerson passed out a current Chapter 7 Trustee's "Required Documentation for Production and Inspection at all 341 Meetings," and asked if there were current guidelines/criteria for what a Chapter 7 debtor must provide.

Mr. Tucker said the rules are quite broad. Discussion followed regarding what the Chapter 7 trustees in Northwest Arkansas require, as opposed to those in other areas of the Western District.

6. Jean Rolfs discussed the April 1 implementation of the Reduced Paper Module (RPM). Elimination of redundant noticing, as well as significant cost savings for the Judiciary, can be achieved through the RPM which allows parties to receive electronic-only notices through CM/ECF.

Although RPM has been available since 2005, the court has delayed implementation based on feedback from prior Eastern and Western District Bar Advisory Committees. On December 1, 2005, an amendment to Bankruptcy Rule 9036 went into effect eliminating the requirement for bankruptcy courts to obtain electronic confirmation when an e-notice has been received. By implementing RPM, the court will have the ability to remove registered ECF e-mail recipients from the BNC mailing list, so that a user's **sole** method of receiving notices from the court can now be through ECF e-mail

In effect, the change allows ECF users to stop receiving redundant BNC paper notices. With RPM, the "Notice of the First Meeting of Creditors" will continue to be sent by the BNC through the mail, as well as by e-mail, as this notice provides parties with the debtor(s)' complete social security number.

7. A roundtable discussion was held with each member sharing issues of concern. Issues brought up included:
- A. Receiving MDDs for incomplete address (in Fayetteville, when room # is missing from Clerk's office address).
  - B. Needing to remove yourself from a case to stop receiving notices.  
**Solution: There is an event that an attorney can docket to remove themselves from receiving e-mail notifications in a particular case once their obligation to their client is resolved. The event is located under Bankruptcy > Notices > Notice to Discontinue Notification and requires no paperwork be attached.**
  - C. Process of getting interpreter when needed.  
**Solution: Request through Chuck Tucker's office for 341(a) meeting.**
  - D. When converting a Chapter 13 to a Chapter 7, and there is not an actual change in circumstances, attorneys are told to file amended schedules. But the schedules don't actually change.  
**Answer: The clerk's office has been requiring a new Means Test be filed. New schedules I and J should not be required. If they do change and are required, however, use the new forms.**

- E. Jill Jacoway requested a small group meet at the Clerk's Office to learn how claims registers are managed.  
**Answer: Jean will set this up with Fayetteville Clerk's Office.**
- F. Question asked regarding doing a batch filing, with one petition being IFP. The attorney's credit card was charged for all the filings, including the IFP.  
**Answer: When batch filing, cannot include IFP. This needs to be filed separately.**
- G. Clerk's office procedure when a case is filed in 2007 (example), then converted in 2008, and which forms are required.  
**Answer: The clerk's office generally requires new forms to be used on all cases, since form changes which do not stem from a change in the bankruptcy rules are generally effective immediately. However, because the IRS information has changed, using the new means test forms (B-22 series) on older cases can change certain calculations. Therefore, when amending means test forms or converting a case, attorneys should use the means test form in effect at the time of filing the original case.**

8. Joyce Babin, Chapter 13 Trustee, said that the Chapter 13 trustees are reviewing their process in post-petition claims, and said that if anyone is interested in providing input, to let her know.

In addition, General Order 11 authorizes the Chapter 12 and Chapter 13 trustees to enter certain routine orders, which the trustees generate on behalf of the court. Joyce explained that a committee, including judges and trustees, will be reviewing these routine orders, and if anyone is interested in providing input, to let her know.

9. The Western District Bar Advisory Committee will meet again in approximately 6 months. Suggestions were to try to coordinate the meetings with CLE events where a majority of the members will be in attendance.

