

DEBTOR/CREDITOR RIGHTS COMMITTEE
REPORT PREPARED FOR THE SEPTEMBER 11, 2014 COUNCIL MEETING

1. Next Scheduled Meeting of the Committee.

Next scheduled meeting of the Committee: November 5, 2014, dinner at 6:00 p.m., business meeting at 6:30 p.m.

2. Council Approval.

None at this time.

3. Membership.

The Committee communicates regularly with its membership through its list serv, with announcements of Committee events, case law alerts, and announcements of events of interest to bankruptcy and insolvency law practitioners. This increases the Committee's profile. In addition, holding regular meetings and educational events increases the interest of the bar in becoming members. We regularly receive inquiries from bar members about joining the Committee and respond immediately to reach out to the individuals.

4. Accomplishments Toward Committee Objectives.

The Committee was active in drafting amendments to MCR 2.621 and MCR 2.622 on receiverships, and the Business Law Council twice wrote to the Michigan Supreme Court in support of the amendments. On March 26, 2014 the Michigan Supreme Court adopted the revised rules, effective May 1, 2014.

The Committee held a seminar on the new rules on June 10, 2014, discussed below.

The Committee, and Tom Morris, individually, commented against adopting an amendment to the Federal Rules of Bankruptcy Procedure allowing inmates extra time to appeal. The amendment was adopted anyway.

The Committee has met three times already this year and will meet a fourth time in November.

The Committee is also taking responsibility for the Spring 2015 issue of the Michigan Business Law Journal. See Section 6 below.

5. Meetings and Programs.

The last meeting of the Committee was on August 19, 2014. The Committee is “crowdsourcing” an article on Secret Liens/Problematic Liens for the Michigan Business Law Journal, under the leadership of Tom Morris. The Committee discussed identification of liens to be included in the article and those liens, and members volunteered to write portions of the article. We continue to seek additional volunteers.

The Committee plans at its November 4, 2014 meeting to discuss the Uniform Law Commission’s recently adopted Uniform Voidable Transfer Act, and whether the Business Law Section should support its adoption in Michigan, as well as the pending and recommended amendments to the Federal Rules of Bankruptcy Procedure.

6. Publications.

The Committee is responsible for the March 2015 edition of the Michigan Business Law Journal. As discussed above in Section 5, under the leadership of Tom Morris, the Committee is “crowdsourcing” an article on secret liens/problematic liens for the issue.

In addition, the Committee was actively involved in drafting new Receivership rules in MCR 2.622, and presented a seminar on Receiverships in the new rules on June 10, 2014. The presenters at the seminar are following up with articles based on the seminar presentations, plus there will be an edited transcript of a four Judge panel on the Receivership rules.

7. Methods of Monitoring Legislative/Judicial/Administrative Developments and Recommended Action

The Committee members monitor new law, rules, cases and other matters of interest to share them with the Committee. The Legislative Review provided to the Council and a memorandum on recent cases of interest are also shared at the meeting and discussed. A copy of the recent case law memorandum shared at the August 19, 2014 meeting is attached as an Exhibit.

As a bar group active in insolvency related issues, the Committee is often asked to participate in judicial and administrative developments, such as assisting in the drafting of the proposed amendments to the receivership rules. The co-chairs are currently involved in drafting new amendments to the local rules for the Eastern District of Michigan, hopefully to be adopted in 2015. Also, the co-chairs individually and through bar groups monitor new developments to discuss at our meetings or in list serv alerts.

8. **Miscellaneous.**

The seminar materials for the Committee's June 10, 2014 seminar on Receiverships included certain draft forms to comply with the new rules. The Judges participating in the seminar were enthusiastic about standard receivership forms being drafted and adopted by the State Court Administrator Office ("**SCAO**"). The Honorable Robert J. Colombo, Jr., Chief Judge, Wayne County Circuit Court, Honorable John C. Foster, Chief Judge, Macomb County Circuit Court, Honorable Kristen Frank Kelly, Judge, Michigan Court of Appeals, and Honorable Christopher P. Yates, Judge, Kent County Circuit Court, joined by the Honorable Annette J. Berry, Judge, Wayne County Circuit Court, who is on a SCAO committee on drafting new official forms, with Committee members, Judy B. Calton, Gregory J. DeMars, Robert J. Diehl, David M. Findling, Kay Kress, Michael S. Lieb, and Judith Miller formed a committee to draft a set of proposed SCAO forms for Receiverships.

Judy B. Calton, Co-Chair

Judith Greenstone Miller, Co-Chair