

DEBTOR/CREDITOR RIGHTS COMMITTEE
REPORT PREPARED FOR THE SEPTEMBER 26, 2016 COUNCIL MEETING

1. 2015-2016 Budget Request and Anticipated Use Of Funds

The Committee requests a budget of \$4,000, to be used for meeting costs, seminar costs and costs to potentially sponsor events jointly with other bar groups.

2. Use of Budgeted Funds During 2014-2015

The Committee's funds were used for meeting costs (food and speaker expenses) and seminar costs, including a video of the presentation posted to the Section's website.

3. Next Scheduled Meeting of the Committee

There is no meeting currently scheduled. The Committee is presenting a seminar on December 1, 2015, described in Section 7 below. The Committee anticipates scheduling its next meeting in January 2016.

4. Council Approval

None at this time.

5. Membership

The Committee communicates regularly with its membership through its list serve, 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.

We had over 40 at our April 21, 2015 meeting; over 70 at our May 14, 2015 seminar on Electronically Stored Information; and 69 reserved for the Committees' July 15, 2015 meeting which included a question and answer session on municipal bankruptcy with Judge Steven R.

Rhodes and Kevyn Orr and Professor John Pottow leading a discussion on the five Supreme Court decisions on bankruptcy issues from its last session.

6. Accomplishment's Toward Committee Objectives

The Committee held three meetings this calendar year to date, two with educational presentations, and presented one seminar. *See* Section 5 above. The Committee is presenting another seminar on December 1, 2015, discussed in Section 7 below.

The Committee had a strong role in drafting the amendments to MCR 2.622 on receiverships, presented a well-received seminar in June 2014 on receivership practice with the participation of four judges, the Committee wrote eight articles on receivership practice, which were published in the March 2015 issue of the Michigan Business Law Journal, and formed a Receivership Forms Committee, with all four judges from the seminar and the Honorable Annette Berry participating, to create forms on receiverships to be adopted by the Supreme Court Administrator Office (SCAO) as official forms. They were considered by SCAO in its March 2015 meeting, but no decision on adoption of the forms has been made yet.

The Committee was authorized to file amicus curiae papers in support of the appeal from a trial court's refusal to make the findings required by MCR 2.622, the new receivership rule, when refusing to appoint the nominated receiver and appointing the judge's selection instead. Robert Mollhagen of Howard & Howard wrote an amicus in support of leave to appeal. The Court of Appeals granted that leave on August 11, 2015. Mr. Mollhagen will be writing an amicus brief as well.

7. Meeting and Programs

On December 1, 2015, the Committee, along with the Bench of the Eastern District of Michigan Bankruptcy Court, will present a seminar on the amendments to the Local Rules of the

Eastern District of Michigan Bankruptcy Court, the Federal Rules of Civil Procedure and the Bankruptcy Official Forms, most of which amendments will become effective on December 1, 2015. The seminar will be held at the U.S. District Court. The Co-chairs and several Committee members had active roles in drafting the amendments to the Local Rules.

See Section 5 above regarding the Committee's seminar on Electronically Stored Information and our April 21, 2015 and July 15, 2015 meetings.

8. Publications

The Committee was responsible for the Spring 2015 issue of the Michigan Business Law Journal, which had eight articles on the theme of Michigan's new receivership rules, which rules the Committee had a role in drafting, and receivership law in general.

Tom Morris, on behalf of the Committee, prepared on a crowd-sourced journal article on secret and problematic liens for publication in an upcoming issue of the Michigan Business Law Journal.

9. Methods of Monitoring Legislation/Judicial Administrator Developments and Recommended Action

The co-chairs and other members of the Committee participated in rewriting and updating the Local Rules for the United States Bankruptcy Court for the Eastern District of Michigan, and the Committee will be presenting a seminar on the rules. *See* Section 7 above.

The Committee was asked to and prepared amicus papers in a receivership appeal. *See* Section 4 above.

The Committee discusses legislative developments and case law at its meetings.

10. **Miscellaneous**

n/a

Judy B. Calton, Co-Chair
Judith Greenstone-Miller, Co-Chair

Dated: September 16, 2015