

**DEBTOR/CREDITOR RIGHTS COMMITTEE
ANNUAL REPORT PREPARED FOR THE
DECEMBER 5, 2015 ANNUAL MEETING**

Please describe your committee's activities during the 2014-2015 year toward achievement of the goals outlined in the Section's Strategic Plan. Each question below corresponds to a specific Section of the Plan, a copy of which is attached and to which reference may be made for further guidance in providing responses. If the question is not applicable to your particular committee or directorship, please note as such.

1. Sponsorship of programs for Continuing Legal Education via a means accessible to Section Members, including holding at least one program yearly (Article 1, 3, of the Strategic Plan).

The Committee presented a May 14, 2015 seminar entitled Electronically Stored Information ("ESI") Discovery for Bankruptcy Practitioners, organized and presented in part by Co-chair Judy Miller, a nationally recognized expert on the issue. This seminar was attended by over 70 practitioners. It was also videotaped and posted on the BLS's webpage on the SBM website.

The ESI seminar was so well received, a modified version was presented subsequently at the Federal Bar Association Western District Bankruptcy Section Conference. Judy Miller is presenting a webinar and a seminar for the American Bar Association on ESI and related amendments to the Federal Rules of Civil Procedure, building on the work done for the Committee's ESI seminar. The Federal Judiciary Center has posted the Committee's seminar materials in its Library of Materials for review by members of the Judiciary.

The Committee believes its ESI seminar in which Bankruptcy Judge Mark Randon was an initial presenter, and Chief Bankruptcy Judge Philip Shefferly was a presenter when it was repeated for the FBA, was influential in the Eastern District of Michigan Court's pending adoption of amendments to its local rules regarding ESI.

The Committee makes arrangements for attorneys to attend seminars and meetings by telephone.

See the discussion of further programs in Section 2 below.

2. Meetings and Programs.

The Committee has been working with the Bankruptcy Judges to put on a seminar on the amendments to the Federal Rules of Civil Procedure effective December 1, 2015 applicable to bankruptcy practice, and the amendments to the Official Bankruptcy Forms and the Local Bankruptcy Rules. It was determined that was too much content for one seminar, so two seminars are being held:

(a) one seminar on December 1, 2015 at the Theodore Levin U.S. Courthouse in Detroit on the amendments to the official bankruptcy forms and related electronic case filing

procedures, effective December 1, 2015. The seminar is being presented by the Bankruptcy Judges, the Clerk of the Court and several members of the bar, including the Committee Co-Chairs. The Committee is assisting the Court with this seminar; and

(b) the second seminar, on January 13, 2016, is being presented by the Bankruptcy Judges and the Committee on the amendments to the Federal Rules of Civil Procedure applicable to bankruptcy practice effective December 1, 2015, and the amendments to the Local Bankruptcy Rules, expected to become effective February 1, 2016.

3. Addressing substantive legal issues for committee members, including holding regular committee meetings (at least once a year) and reporting on the meetings to the Council (Article 1, 4).

The Committee held three meetings this calendar year, two with educational presentations, and presented one seminar. The Committee's April 21, 2015 meeting was joint with the Partnership and Limited Liability Company Committee and discussed the intersection of bankruptcy and limited liability company law.

The July 15, 2015 meeting included a question and answer session with the Honorable Steven Rhodes and Kevyn Orr on municipal bankruptcy, and a discussion of the five Supreme Court opinions on bankruptcy topics from the 2014-2015 term. The Committee is assisting with another seminar on December 1, 2015 and presenting one on January 13, 2016, discussed in Section 2 above.

4. Accomplishments Toward Committee Objectives.

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

5. Promoting involvement in the committee and making the committee more responsive to members including the designation of a contact person (Article 1, 5).

See Section 6 below.

6. 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 have designated contact persons (David Lerner and Craig Schoenherr), but the contact usually comes to Terri Shoop and she refers it to the c-chairs.

We had over 40 attend our April 21, 2015 meeting; over 70 at our May 14, 2015 seminar on Electronically Stored Information; and 69 at the Committee's 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.

7. (A) monitoring and raising awareness of laws or developments in laws that affect Michigan businesses and, when appropriate, making recommendations for updates and improvements.

As discussed above, the Committee had an active role in the adoption of record MCR 2.622 requiring receiverships and prepared proposed official court forms.

The Committee Co-chairs and other members were active in working with the Eastern District of Michigan Bankruptcy Court in writing proposals to amend the local court rules.

(B) providing assistance to appropriate state government personnel with respect to business-related legislation and rule making;

See Section 7(A) above.

(C) as appropriate, providing amicus curiae briefs related to Business-related issues being addressed by the courts, and

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 the judge refused to appoint the nominated receiver and appointed 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.

(D) educating Michigan businesses, their owners and employees about changes to Michigan's laws in order to maintain Michigan's ability to attract and retain new business enterprises and enable existing businesses to remain competitive.

Not applicable.

(Article 11, 1).

8. Please comment on your plan regarding succession (Article III, 5).

Co-chair Judy B. Calton is the current Vice-Chairman of the Business Law Section and plans to step down as Co-Chair of the Committee during 2016. This will be discussed with the

Committee at its next meeting to solicit parties interested in becoming Co-Chair, and then seek council approval. Members have expressed interest in becoming co-chair in the past.

9. Please list your Committee's goals and objectives for the next 12 to 24 months and whether you will require additional support from the Section to achieve these goals (Article III, 5).

As discussed above, the Committee will be presenting a seminar on rules amendments jointly with the Bankruptcy Judges on January 13, 2016.

Based on the success of the July 15, 2015 discussion on the Supreme Court bankruptcy opinions of the recently completed session, we expect to do something similar in 2016 (and may create a tradition to do that annually)

M.C.L.A §600.6023 permits the exemption of only one IRA and only one 529 Account. Tom Morris is going to ask the Committee to work on having the statute amended to be able to exempt all of a person's IRAs and 529 Accounts. The Committee would need Council support for this initiative.

We plan for the Committee to study the new Uniform Receivership Act and see if any recommendations for further amendments to MCR 2.622 should be made. If so, the Committee would need Council support for this initiative.