

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

1. Next Scheduled Meeting of the Committee.

There is no scheduled meeting, because the Committee is assisting in a seminar being presented by the Bankruptcy Judges of the Eastern District of Michigan Bankruptcy Court on December 1, 2015 on the amended bankruptcy forms and presenting a seminar with the Bankruptcy Judges on January 13, 2016 on amendments to the Local Rules and the Federal Rules of Civil Procedure.

We expect to schedule a February 2016 meeting.

2. Council Approval.

None at this time.

3. 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 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. Two Committee members, Dan Morley and Aaron Silver, recently became Council members.

4. Accomplishments Toward Committee Objectives.

The Committee held three meetings to date this calendar year, two with educational presentations, and presented one seminar. The Committee is assisting with another seminar on December 1, 2015 and presenting one on January 13, 2016, discussed in Section 1 above and Section 5 below.

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 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 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.

5. 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. 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.

6. 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.

7. Methods of Monitoring Legislative/Judicial/Administrative 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 5 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. A memorandum summarizing recent cases of interest to insolvency practitioners is distributed at most meetings.

8. Miscellaneous.

N/A

Dated: November 19, 2015

Judy B. Calton, Co-Chair

Judith Greenstone-Miller, Co-Chair