

**MINUTES**  
**ATTORNEY ADVISORY GROUP**  
**MARCH 12, 2015 @ 10:30 AM**  
**MONTGOMERY, ALABAMA**

**Present:**

Honorable William R. Sawyer, Chief Bankruptcy Judge  
Honorable Dwight Williams, Bankruptcy Judge  
JC Guerrero, Clerk of Court  
Tonya Hagmaier, Chief Deputy Clerk  
Teresa Jacobs, Bankruptcy Administrator  
Sabrina McKinney, Staff Attorney, Chapter 13 Trustee's Office  
Bowdy J. Brown  
Susan DePaola  
Paul D. Esco  
Cameron A. Metcalf  
Charles N. Parnell, III

**Absent**

Charles E. Grainger, Jr.  
Marsha Mason  
Paul J. Spina, III

**1. Opening**

Judge Sawyer opened the meeting at 10:30 and welcomed everyone.

**2. Old Business**

a. *Minutes:* Mr. Guerrero reminded the group that the minutes from these meetings are posted on the court's webpage under Attorney Resources.

b. *Communication—newsletter/emails:* Mr. Guerrero reminded everyone that the court newsletter is sent out twice a year and they can be found on our webpage. We include pictures to keep your interest, but we also include important articles and practice tips.

c. *Courtrooms update:* Mr. Guerrero explained to everyone that we are in the process of upgrading the courtrooms. The goal is to have the courtrooms become completely digital. Once the upgrades are completed, training on how to use the equipment will be provided. Courtrooms 4C and 4D were upgraded three years ago, courtroom 4E will continue to serve as a back-up courtroom to be loaned out, and courtroom 4F is the VTC courtroom. Mr. Guerrero said the Opelika courtroom looks better but needs some repairs. GSA is will mount

the VTC equipment on the wall and will build a handicap entrance to the courthouse. The Dothan courtroom will also be spruced up with fresh paint, and the VTC equipment will be mounted on the wall.

*Local Rules:* Judge Sawyer discussed the Judicial Conference's draft chapter 13 plan. He asked for feedback from debtor and creditor attorneys and trustees on the draft form.

### **3. New Business**

a. *New law clerk:* Judge Sawyer announced that Wes Causby has replaced Jerrod Maddox as his law clerk. Judge Williams announced that in August Jessica Shavers will replace Erin Hoskins as his law clerk. Jessica will be Judge Williams' last law clerk before he retires.

b. *Clerk's office personnel changes:* Mr. Guerrero introduced Ms. Tonya Hagmaier as the new chief deputy clerk and told the group that Mr. Butch Speed retired in November. He then described the horizontal sharing we are doing with Alabama Northern Bankruptcy and the Bankruptcy Administrator's office for the procurement duties Mr. Speed used to do. He said the horizontal sharing is working well and saving the court money.

c. *Debtor electronic noticing:* Mr. Guerrero said the court is looking into debtor electronic noticing (DeBN). DeBN will allow debtors to sign up with the court to receive court orders and notices electronically instead of by mail. One advantage of DeBN is that the debtor will receive .pdf copies of documents rather than having to go to PACER for one free look. Other advantages mentioned include cost saving and the ease of keeping up with debtors who move or change phone numbers. Ms. McKinney asked that we look into changing the local rules so debtors could be served electronically with all notices, not just notices from the court.

d. *Debtor electronic signatures:* Mr. Guerrero described this issue raised by an attorney at the last attorney forum. New software is available that allows signatures to be applied electronically. The attorney asked if he could use the software to allow debtors to apply their signatures electronically to court documents. Judge Sawyer said the attorney would have to be able to verify the validity of any signatures applied to documents using the software, and Mr. Guerrero said that the research shows that the company who makes and distributes the software does not guarantee the validity of signatures made with the software. Judge Williams reminded the group that attorneys are required to retain valid signatures on file in their offices. Judge Sawyer said we would need to research the issue more.

e. *Judge's signature on orders:* Another question asked at the last attorney forum was if ECF could be set up to have the judges' signatures, rather than the /s/, placed on orders. Judge Sawyer stated we will look into this. Mr. Parnell stated it would also be helpful to have an electronic date and time on all orders.

f. *NextGEN CM/ECF:* Mr. Guerrero said that despite earlier predictions, NextGen CM/ECF will probably not be released this year. When it is released, though, we will schedule training for attorneys and their staffs. More information will be provided at the attorney forums.

*g. Motions for relief from stay (future default clauses):* Judge Sawyer said he will be pushing back on motions with future default clauses except for relief from stay. He said he would allow insurance provisions.

*Other operations topics:*

*h. Ms. Hagmaier* discussed the issue we are having with overpayment of filing fees. If attorneys receive a notice to dismiss for failing to pay a filing fee by the end of 120 days, they should let the trustee's office know if they are going to pay the outstanding amount directly to the court. Otherwise, if they are supposed to be paying the filing fee through the trustee's office, when the trustee gets enough money to pay the fee and they don't know the money has been paid to the court, they pay the court – creating the overpayment. Judge Sawyer said some courts don't have this problem because they don't allow filing fees to be paid in installments.

*i. Documenting Procedures:* Ms. Hagmaier informed the group that she is doing a scrub of our bankruptcy procedures and updating them. She asked the group to let her know if they have a better way of doing something faster or more efficiently.

*j. Plaintiffs' dismissals and joint stipulations of dismissal:* Ms. Hagmaier said that Rule 7041(a)(1)(A)(i) allows a plaintiff to dismiss an adversary proceeding if the defendant has not filed an answer or other responsive pleading. If an answer or other responsive pleading has been filed, 7041(a)(1)(A)(ii) allows the parties to join in a joint stipulation of dismissal. Motions are not needed and shouldn't be used. Simply docket the dismissal, Ms. Hagmaier will acknowledge it, and if all defendants are dismissed we will close the adversary proceeding.

*k. Filing numbers:* Ms. Hagmaier informed the group that bankruptcy filings nationally for 2014 were down 13%. By comparison, bankruptcy filings for our court were up a little less than 1%.

*Attorney Advisory Group members:* Mr. Guerrero thanked the members of the group for being here and for the advice they give. He personally thanked Charles Parnell, Marsha Mason, and Paul Spina and said they will be stepping down from the group this year. They have been members of the group since it began in 2010. Judge Sawyer presented Mr. Parnell with a certificate for his service, and certificates have been prepared for Ms. Mason and Mr. Spina.

*Attorney Advisory Group Meeting – (Next winter - date TBD)*

#### **4. Around the room:**

- Teresa Jacobs said she has been selected to serve another term as Bankruptcy Administrator. She said that within the next six-to-nine months we may receive a survey asking us to discuss our interactions with the Bankruptcy Administrator's office and compare it to our interactions, if any, with U.S. Trustees' offices.
- One group member said the hinges on Judge Williams' courtroom door squeaks loudly every time someone comes in or goes out. Mr. Guerrero said we will have maintenance fix it.

- One member said the wi-fi in Dothan is not reliable. Two other members who are frequently in the Dothan courthouse said they haven't had any issues with it. Mr. Guerrero said we will have someone look at it and try to fix whatever may be wrong.
- One member said he has been seeing a number of filings for debtors living in other districts within Alabama and outside of the state. Judge Sawyer said he will look into it.