

CAPITAL REGION BANKRUPTCY BAR ASSOCIATION

NEWSLETTER

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Editor: Lisa M. Penpraze, Esq.

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2008 OFFICERS AND BOARD OF DIRECTORS

President	James E.D. Doern, Esq.
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Director-at-Large	Ronald Kim, Esq.

PRESIDENT'S MESSAGE

*By: James E.D. Doern, Esq.,
CRBBA President*

We started off this year by the New York State Bar Association awarding both our association and the Capital District Woman's Bar Association an award for the Care Program. I want to thank Barbara Whipple and Joanne Sternheimer and Cynthia Platt for their continuing work for this worthy program. I also want to thank all those that have volunteered and made presentations relative to Care in the past. We have a long and proud tradition in this Bar Association of our Pro Bono service and specifically with the Care Program. It certainly is gratifying that the CRBBA received such recognition. The plaque is on display in the Judge Littlefield's courtroom, thank you Judge!

Turning to practice concerns, a very significant change occurred when Judge Littlefield issued a new standing order Administrative Order 08-01. The order applies in chapter 13 cases only. You can pull it up on the Court's website, it established a "Flat Fee" for debtor's attorneys of \$3,700.00. I commend you all to read the Administrative Order as well as the Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys. The directive defines what the responsibilities for the debtor and debtor's attorney from pre-filing, pre-confirmation and post-confirmation. Most of the things listed there we probably all are doing as debtor's attorneys already.

However, the order clearly defines what is expected of debtor's attorneys so care should be given to its terms. The order is posted on the Court's website.

Last year the board established a Practice Committee to deal with issues that concern us as practitioners. With Bill Schiller's leadership has been for over a year now trying to deal with the motions to lift stays in both Chapter 7's and 13's. Specifically regarding the information that the creditors are to put forth in their motions, the response by the debtors and dealing with what at times seems to be numerous lift stay motions that crowd the calendar. The Practice Committee has met with Judge Littlefield twice. I want to thank everybody that has participated in the Practice Committee namely Bill Schiller, Andrea Celli, Paul Levine, Dick Weisz and Barbara Whipple. The committee will turn its attention to other issues in the future. One of my goals this year is to improve the day-to-day practice of law for our members.

The court also has now established a Rules Committee to look at the local rules. In the Albany area, Frank Brennan, Andrea Celli, Paul Levine, Bill Schiller, and Dick Weiskopf have all been placed on the Rules Committee. Any suggestions you may have you should voice them to committee members or directly to the Court at rules_committee@nynb.uscourts.gov. This is a rare opportunity that we get as practitioners where we can have input on some changes.

The Board also established a special sub committee formed along with the Central New York Bar Association we are exploring the idea of moving the Annual Conference out of Cooperstown. Andrea Celli, Frank Brennan and myself are serving on that committee from our association if you have any comments or concerns relative to that issue please raise them.

I also want to report that we had a very successful luncheon on March at the 677 Prime. Thank you Barb Whipple for organizing it. Thanks to Judge Littlefield for speaking. The Judge talked about his standing order as well as Debtor's Rights and Responsibilities, he talked about the Practice Committee and talked about the changing in the

standing order. Kim Lefebvre and Andrea Celli also spoke on issues of concern for them.■

OUTGOING PRESIDENT'S MESSAGE

By: Frank Brennan, Esq.

This is my final message to the CRBBA as its president. While it is a well-worn cliché to ask "Where did the time go?" it is, nevertheless, accurate. It does not seem possible that another year's worth of Board of Directors' meetings, CLE programs, the Otesaga Conference and Annual Meeting have gone by. While an outgoing president's message often looks back over his or her term, I think one should look forward as well.

Certainly, this year's Board has accomplished much to be proud of. The current president, Jim Doern, headed a sub-committee to propose changes to the manner of, and information required for, motions for relief from the automatic stay and the content and sufficiency of responses by debtors to such motions. Barbara Whipple continues to oversee the CARE Program in conjunction with the Women's Bar Association to bring debtor education to local high schools and colleges to educate nascent consumers about the pitfalls of debt. Bill Schiller has, in his capacity as treasurer, maintained the association's business records and has performed the often thankless task of collecting CLE registration fees and membership dues and keeping the Otesaga conference within budget. The Association's directors: Tony Arcodia, Lisa Penpraze, Steve Rodriguez and Sandy Demars have all contributed their efforts, time and ideas to enhance the operation and programs of the Association. Our updated and more user-friendly website is but one tangible example of the work board members do on behalf of the Association.

The CRBBA has much to look forward to as well. As with most years, 2008 will be a year of transition. Judge Stephen Gerling is retiring after a long and distinguished career on the Bankruptcy Court bench and the process to select his successor is

already underway. Judge Littlefield will assume the role of Chief Judge of the Court and Judge Cangilos-Ruiz's short-lived tenure as the newest member of the Court will be supplanted by Judge Gerling's successor. Efforts to soften or repeal certain provisions of BAPCPA are being touted in Washington, D.C. by some presidential candidates seeking to ameliorate the plight of debtors caught in the sub-prime mortgage crisis and overall slowdown in the economy and may well find their way into the upcoming election.

Despite these changes, the CRBBA will continue to be in the good hands of its incoming president, Jim Doern, and his slate of officers and directors. I am confident that he will continue the tradition of a proactive bar association that strives to provide valuable services to its members. Planning for next year's conference is already under way by co-chairs Barbara Whipple from the CRBBA and Tony Hanley from the Central New York Bankruptcy Bar Association. The Court has also formed a committee to consider revisions to the Court's Local Rules and the Association will presumably be a participant in that process through the involvement of its members.

In keeping with the Association's proactive involvement on behalf of its members, it has been suggested that the Association appoint several of its members to a panel that will obtain materials and information from the New York State Bar Association regarding its attorney assistance programs. Attorneys are not immune to the vicissitudes of the stress that follows from managing a law practice and maintaining some semblance of a personal life as well. While the New York State Bar Association has myriad programs to assist with instances of stress, psychological issues and substance abuse, the CRBBA does not have a means to refer its members to those programs or even advise them of the programs' existence.

This worthwhile committee is not intended to supplant or duplicate the State Bar Association's programs. Rather, it is borne of the recognition that members of our Association are a close-knit and collegial group that I believe genuinely cares about their peers. Seeking help can often be a daunting

experience that most people are reluctant to undertake. If, however, a member in need is aware of a person within the CRBBA who can sort through the various assistance programs offered by the State Bar and point that member in the right direction, perhaps the hurdle of seeking help will not seem as high. This bit of unfinished business came up late in my term so it is still in its formative stage, but I encourage any member who is interested to become involved with the Association to see this program forward.

It has been my distinct pleasure to serve as President of this organization. When I began my work in the Bankruptcy Court Clerk's Office in 1990, prior to attending law school, I did not envision the path that I would take that would lead me to this post. Many members of this Association have over the years become colleagues and friends to me and were examples of what the honorable practice of law meant. It is this collegial atmosphere that makes the CRBBA unique among bar associations and is its greatest asset. ■

REVISION TO LOCAL RULES OF PRACTICE

By: Paul A. Levine, Esq.

The U.S. Bankruptcy Court for the Northern District of New York has begun a district wide revision of its Local Rules. A Local Rules Committee has been appointed. Work began on April 4, 2008 when, through a district wide video conference, the entire committee met to plan its work. Three sub-committees have been formed for each division of the Court, Albany, Syracuse and Utica. The Albany division is reviewing Local Rules 1001-1 to 3015-1, with Syracuse reviewing Local Rules 3015-2 to 7004-2 and the Utica sub-committee reviewing Local Rules 7016-1 to 9070-1. Both Assistant United States Trustees and both Chapter 13 Standing Trustees are joining the effort along with representatives of the Court.

At present, the Committee's schedule envisions a release of draft rules for public comment

in late fall. Reprinted below is a list of the membership of the Albany sub-committee:

Richard Weiskopf,	Paul Levine
William Schiller,	Frank Brennan,
Norman Fivel,	Cindy Platt,
Tom Zdanowicz,	Beth Wolf,
Guy VanBaalen,	Kim Lefebvre,
Andrea Celli,	Mark Swimelar
Diann Freeman	

Members of the Bar are encouraged to contact any sub-committee member with questions or concerns they may have with regard to the process and suggestions for revisions to the local rules. ■

ANNUAL CONFERENCE 2008 – LOOKING GREAT !!!

By: Barbara Whipple, Esq., 2008 Co-Chair

The annual CRBBA/CNYBBA conference is well into the planning stage. The conference will be held on November 14th and 15th at the Otesaga Hotel in Cooperstown New York. With the help of Co-Chair Tony Hanley, Andrea Celli, Bonnie Baker, Bill Schiller and Amy Przewozny we have what we believe to be a great program this year. Topics will include mortgage issues (arrear, lift stay motions, reinstatement of mortgages and loss mitigation); secured car claims; a stellar Chapter 11 Panel; an ethics component and the all-important Judges Panel.

We hope everyone will be able to attend this year. Please register early (we are hoping to sell out quickly) and we invite anyone with suggestions, questions or comments to forward them to Barbara Whipple at bwhipple@pmblawpc.com. We will keep everyone advised as we progress towards the conference. Thank you for your support! ■

PRACTICE AND PROCEDURE UPDATE

By: Lisa M. Penpraze, Esq.

1. On January 3, 2008, the Northern District of New York Bankruptcy Court issued a Notice Regarding Pro Bono Cases. The Notice is available on the Court's website www.nynb.uscourts.gov. If you file a pro bono case, the Court requests that you submit a cover letter with your filing indicating that you are handling the case pro bono.

2. On February 21, 2008, Hon. Robert E. Littlefield, Jr. issued Administrative Order 08-01 concerning counsel fees charged in Chapter 13 cases. Attached to the Order is a two-page document entitled "Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys." The documents are available on the Court's website www.nynb.uscourts.gov under "Administrative Orders."

The Order caps Chapter 13 flat fees at \$3,700, however, the fee may not more than 50% of the amount funded through the Plan. Fees other than as set forth in the Order must be approved by the Court on motion pursuant to 11 U.S.C. § 331.

The "Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys" form is to be reviewed with the client and signed by both the client and the attorney.

3. 11 U.S. Trustee Fee Increases in Chapter 11 Cases. As of January 2008, UST Fees have increased by 30%. For quarterly disbursements in excess of \$5,000,000 the new fees range from \$13,000 to \$30,000. See the "Public Notices" section of the Court's website for all the information www.nynb.uscourts.gov. ■

FROM THE EDITOR'S DESK

By: Lisa M. Penpraze, Esq.

I apologize for the lateness in printing this issue of the CRBBA newsletter and especially the Outgoing President's Message by Frank Brennan. As many of you know, I was out on maternity leave through February 2008. My husband and I welcomed Bryce Thomas Penpraze into the world on December 6, 2007. I thank you for your patience and understanding. ■

CRBBA BOARD MEETINGS

2008 Board Meetings start at 8:30 a.m. and are held on the **2nd Tuesday of each month** at:

Nolan & Heller, LLP
39 North Pearl Street, 3rd Floor
Albany, New York 12205

All members are welcome.

Articles for publication in the newsletter are welcome and should be submitted to:

Lisa M. Penpraze, Esq.
Segel, Goldman, Mazzotta & Siegel, P.C.
9 Washington Square
Albany, New York 12205
or by email lisap@sgmalbany.com.



We are updating our membership list and website and need your current e-mail address.

PLEASE E-MAIL YOUR NAME & CURRENT E-MAIL ADDRESS TO
NATHAN.GOLDBERG@ESINET.COM

Thank you for your cooperation.

NOTICE

2008 Motion dates for Judge Gerling:

Binghamton:

May 6, June 3, July 8, July 31

10:00 a.m. Motions in Chapters 12 & 13
2:00 p.m. Chapter 13 Confirmation Hearings

May 20, June 17, July 22, August 12

9:30 a.m. Chapter 7 Final Meetings
10:00 a.m. Motions in Chapters 7 & 11
& Bennett Funding
2:00 p.m. Pretrials/Status Conferences
(Scheduled by Court)

Utica Courtcall:

May 13, June 10, July 15, August 5

10:00 a.m. Motions in all Chapters &
Chapter 7 Final Meetings
2:00 p.m. Chapter 13 Confirmation Hearings
2:00 p.m. Pretrials/Chapter 11 Status Conferences
(Scheduled by Court)

Utica:

May 22, June 24, July 29, August 19

9:30 a.m. Chapter 7 Final Meetings
10:00 a.m. Motions in all Chapters
2:00 p.m. Chapter 13 Confirmation Hearings
2:00 p.m. Pretrials/Chapter 11 Status Conferences
(Scheduled by Court)

2008 Motion dates for Judge Cangilos- Ruiz:

Syracuse:

May 15, 29; June 26; July 17, 31

August 21; September 4, 25; October 2, 16, 30

November 6, 20; December 4, 18

10:00 a.m. Motions in Chapter 7
11:30 a.m. Motions in Chapter 11
2:00 p.m. Chapter 11 Confirmation Hearings

May 6, 20; June 3; July 8, 22; August 19

September 9, 23; October 7, 21, 28;

November 18; December 2, 16

10:00 a.m. Motions in Chapters 12 & 13
2:00 p.m. Chapter 13 Confirmation Hearings

NOTICE

2008 Motion dates for Judge Littlefield:

- (A) Motions in Chapter 7 shall be scheduled at 9:00 a.m.
(B) Motions in Chapter 11 shall be scheduled at 10:30 a.m.
(C) Motions in Chapter 12 or any Trustee Swimelar Matters shall be scheduled at 11:00 a.m.
(D) Motions in Chapter 13 shall be scheduled at 9:00 a.m.
(E) Trustee dismissal and claim motions are scheduled at 12:15 p.m., 12:30 p.m. and 12:45 p.m.
(F) All requests for pretrials, trials, hearings on Chapter 11 Disclosure Statements and Confirmations, as well as matters related to Chapter 11 Confirmations should still be sent to the Court for scheduling.
(G) File motions with an affidavit of service electronically. Please submit proposed orders conventionally with the ECF Case-Chambers copy or under separate cover.
(H) Please file the Court's ECF Case-Chambers copy o motions and related pleadings pursuant to the Court's Administrative Order No. 02-03.

Albany Cases:

Chapter 7 and Chapter 11 (Wednesday's)

May 7, 14, 21, 28; June 11, 18, 25;
July 2, 9, 16, 23, 30; August 6, 13, 20;
September 3, 10, 24; October 1, 8, 15, 29;
November 5, 12, 25 (Tuesday)
December 3, 10, 27

Chapter 12 and Chapter 13 (Thursday's)

May 1, 8, 15, 22, 29; June 12, 19, 26;
July 3, 17, 24, 31; August 7, 14, 28;
September 4, 11, 25; October 2, 16, 30;
November 6, 13, 20; December 4, 11, 18

Judge Littlefield's motion calendar schedule will be posted on the Court's website (www.nynb.uscourts.gov), at the Courtroom and the Clerk's Office. You are responsible for checking this schedule prior to serving your motions.