

**U.S. Bankruptcy Court for the Southern District of Florida
Bankruptcy Lawyers Advisory Committee (“LAC”)
Minutes of Meeting Held on September 15, 2022 (via Zoom)**

LAC Members Present

Christopher Andrew Jarvinen (Chair, 2022)¹
John Page (Vice Chair, 2022)
Raychelle Tasher (Secretary, 2024)
Peter Kelly (*Pro Bono Committee*, 2022)
Jeffrey S. Fraser (Immediate Past Chair *ex officio*, 2023)
Greg Grossman (2023)
Michael Hoffman (2022)
Dana Kaplan (2023)
Catherine Kretschmar (2024)
Justin Lefko (2023)
Robin Weiner (*Standing Chapter 13 Trustee*, 2024)

LAC Members Not Present

Jacqueline Calderin (2023)
Laila Gonzalez (2024)
Heidi Feinman (2024)
Hayley Harrison (*Immediate Past President-BBA*, 2022)

Guest Present

Assistant U.S. Trustee Guy Van Baalen

1. Welcome.

Chair Jarvinen called the meeting to order at 12:03 p.m. and welcomed Assistant U.S. Trustee Guy Van Baalen, who attended the meeting as a guest of the LAC at the request of Heidi Feinman.

2. Approval of the Minutes of Prior LAC Meeting.

Chair Jarvinen advised that the minutes from the May 19, 2022, were circulated to the LAC members for review and had already been approved by the Judges. Hearing no amendments to the minutes, a Motion to Approve the Minutes was made by LAC member Robin Weiner and a Dana Kaplan seconded. LAC unanimously approved the minutes for the prior LAC meeting held on May 19, 2022.

3. Old Business.

¹ Leadership position (if any) and the year that the LAC term expires are located in parentheses.

Chair Jarvinen advised that there was no old business to discuss.

4. New Business: Subcommittee Reports.

a. Chapter 13.

Jeffrey Fraser reported on behalf of the chapter 13 subcommittee and advised that the subcommittee is focused on addressing on one issue—secured creditor attorney fees in chapter 13 cases. Mr. Fraser advised that there are several proposals in relation to three types of fees: plan review, proof of claim and objection to confirmation. Mr. Fraser advised that the subcommittee has exchanged several emails and are currently on a draft. Mr. Fraser advised that this fee proposal has been brought up several times and the committee is eager to finalize a draft to circulate to the LAC at the next LAC meeting. Chair Jarvinen agreed with Mr. Fraser and the Chapter 13 Subcommittee’s approach to handle their discussions regarding the fee proposal within the committee and encouraged the committee to email the LAC once a final proposal has been drafted.

b. Annual Bench/Bar Conference Initiative.

Justin Lefko reported on behalf of the Annual Bench/Bar Conference Initiative. Mr. Lefko advised that the committee has discussed the current process of the Annual Bench/Bar Conference in the Middle District of Florida and ways that the conference may work in the Southern District of Florida. The committee is currently trying to figure out where the conference would be located and when it would take place. Mr. Lefko opened for the floor for questions. There were comments from LAC members that the committee should consider sometime after the holidays and into the new year. LAC members expressed concern about the time frame to plan such a large conference and the possible conflicts that may arise with other local and national conferences. Chair Jarvinen inquired as to what action plan the committee will achieve by the LAC meeting to be held in December. Mr. Lefko advised that the committee will draft a timeline and processing goals by December and distribute this information to the LAC with the goal of holding the first conference during 2023.

c. Mental Health/Attorney Mentoring.

i. *Mental Health Initiative*

John Page reported on behalf of the Mental Health/Attorney Mentoring committee. Mr. Page advised that the committee has been in communications with Jeena Cho, the author of the book, *The Anxious Lawyer*, an eight-week guide which introduces the art of meditation to one’s legal practice and life. Mr. Page advised that there has been little progress in raising money to be able to pay for Jeena Cho’s speaker fee. However, the committee has discussed fundraising opportunities and possibly subsidizing costs with other organizations such as the Bankruptcy Bar Association for the Southern District of Florida.

ii. *Possible 501(c)(3) Status for the LAC*

The committee’s report then shifted to a discussion on the possibility of creating a 501(c)(3) tax exempt organization raised so that the LAC could fundraise for the above-mentioned

mental health initiative and other reasons. Catherine Kretzschmar mentioned her idea, and the communications she has had with Chair Jarvinen, in exploring the idea of seeking tax exempt status for the LAC and other options that may be available to the LAC (co-sponsoring a LAC event with a tax exempt organization that can accept donations in support of the initiative). At the end of the LAC meeting, Chair Jarvinen suggested to the LAC that a committee be created to investigate the initiative. The suggestion was approved and the members of the committee are Ms. Kretzschmar and Chair Jarvinen.

iii. *The LAC Approves Forwarding to the Judges a Proposed Revision to FL Rule 4-8.3 (“Reporting Professional Misconduct”)*

Prior to the LAC meeting, Chair Jarvinen distributed by email to the LAC a proposed revision to FL Rule 4-8.3 (the “Proposed Revision”). The Proposed Revision was approved unanimously by the Mental Health/Attorney Mentoring committee with a recommendation that it be considered by the entire LAC. The Proposed Revision provides, in certain circumstances, an option to an attorney (“Attorney A”) who reports another attorney’s or judge’s (collectively “Attorney B”) alleged misconduct to be able to report such alleged misconduct either to (a) a disciplinary body (the only option under the current form of FL Rule 4-8.3) or (b) an approved lawyers or judges assistance program (the proposed new option) where Attorney A reasonably believes that Attorney B’s conduct is the result of substance abuse, mental stress, or other disorders that negatively affect Attorney B. During the LAC meeting, Chair Jarvinen discussed the creation of the Mental Health/Attorney Mentoring committee in 2021, as well as the year-long investigation and research by the committee that resulted in the Proposed Revision (i.e., how the committee came to be and what the committee has been exploring in regard to mental health and the Proposed Revision). As precedent to support the Proposed Revision, Chair Jarvinen summarized revisions similar to the Proposed Revision that have already been made to the analogous model rules in the State of New Mexico and the State of Texas; that is, both states provide an option for reporting individuals to peer assistance programs under certain circumstances. The guest of the LAC, non-member Assistant U.S. Trustee Guy Van Baalen, spoke against approval of the Proposed Revision. The other comments of the LAC were in support of the Proposed Revision. Chair Jarvinen then inquired whether someone wished to make a motion to approve the Proposed Revision. Mr. Page made the motion to vote on the Proposed Revision. The motion was seconded by Ms. Kretzschmar. The LAC voted 10-1 to forward the Proposed Revision to the Judges. Ms. Weiner provided the sole dissenting vote. The motion passed and Chair Jarvinen indicated that he would turn to sending the Proposed Revision to the Judges for their consideration, and if approved by the Judges, the Proposed Revision will be submitted to The Florida Bar.

d. Electronic Signature Initiative

Michael Hoffman reported on behalf of the electronic signature initiative. Mr. Hoffman remarked that he had sent an email to the LAC prior to the meeting summarizing the current status of the work on this initiative. Mr. Hoffman stated that currently there is a rule that states that when you file a document with an “/s/” you must serve it via wet ink or certify that you have seen a wet signature or seen a wet signature within 14 days. Mr. Hoffman advised the LAC that the rule is a burden on many practitioners for signatures. Mr. Hoffman further advised that there was a recent ABI article on securing signatures, and he noted that the District of Nebraska and the District of

Vermont both have secured signature provisions in their local rules. The guest of the LAC, non-member Assistant U.S. Trustee Guy Van Baalen, expressed concerns on limiting situations where electronic signatures would be allowed, and LAC member Raychelle Tasher also expressed similar concerns from the perspective of the government. Mr. Hoffman advised that both the District of Nebraska and the District of Vermont’s rules are short and straight forward, but the District of Nebraska’s rule was the cleanest adoption. Dana Kaplan agreed to present a draft proposed rule to the LAC for review at the December 2022 meeting. Mr. Fraser expressed concern about how the rule would be adopted either by way of administrative order or local rule. Robin Weiner expressed similar concerns as Guy Van Baalen and Raychelle Tasher. LAC members further expressed concerns about the digital tracing of electronic signatures. LAC members then went into further discussion about wet signatures and client meetings and expressed concerns about electronic signatures being used as a primary practice. Chair Jarvinen then requested the co-chairs to propose a motion to be voted on by the LAC and Ms. Kaplan proposed that the motion would be to have the committee continue its research with the goal of having a draft proposed rule for the LAC to consider. Mr. Page agreed. Chair Jarvinen then made the motion which was seconded by Mr. Page. The LAC members present unanimously in favor of the motion. No abstentions.

5. Resuming the Annual Lunch with the Judges.

Chair Jarvinen advised about the history of the lunch with the Judges, the desire to resume it, and inquired as to when the LAC would like to have the lunch. LAC members discussed possible dates and decided on one to suggest to the Judges. Chair Jarvinen advised that he would contact the Judges regarding the lunch.

6. “Meet the LAC” (Corporate Restructuring)—Proposed Date: November 16, 2022.

Chair Jarvinen proposed to hold the “Meet the LAC” (Corporate Restructuring) on November 16, 2022, as it falls after the *View from the Bench* and LAC members and the Judges could advertise it at the *View from the Bench*. The event will take place from 12:30 pm - 1:30 pm (EST). The LAC will promote the event and Chair Jarvinen thanked Mr. Fraser for the “Meet the LAC” events.

7. New Business: Open Floor.

Chair Jarvinen opened the floor to new business.

LAC members continued the discussion regarding the suggestion to seek 501(c)(3) status. Chair Jarvinen advised that there would be a new subcommittee specifically to research the pros and cons of creating a 501(c)(3) entity.

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The meeting concluded at 1:02 p.m.