

NATIONAL CONFERENCE OF BANKRUPTCY JUDGES
REPORT OF AD HOC CONSOLIDATION COMMITTEE

August 12, 2024

President Dan Collins appointed the Ad Hoc Consolidation Committee (the “Committee”) in the summer of 2023 to consider NCBJ’s response to then-pending proposals in the Court Administration and Case Management Committee (“CACM”) to mandate vertical consolidation of the bankruptcy and district courts as one of several cost-containment measures.

The members of the Committee are: Kathy Campbell, Clerk, Bankr. C.D. Cal. and bankruptcy judges Dan Collins, D. Ariz.; Heather Cooper, D. Vermont; Jeff Deller, W.D. Pa.; Brian Fenimore, W.D. Mo.; Ben Hersh, D. Mont.; Jerrold Poslusny, D.N.J., vice Stacey Meisel, D.N.J.; Bob Nugent, D. Kan. ret. (Chair); and Anita Shodeen, S.D. Iowa, ret.

After hearing comments from NCBJ and the bankruptcy court community at large, CACM’s SBI subcommittee substantially revised its proposals and presented them to CACM as a whole. That committee approved them and reported them out to the Budget Committee. According to SBI subcommittee chair Kathy Vratil, D. Kan., the substance of these revised proposals is less focused on the pilot consolidation project (which received uniformly poor reviews from our community) and more focused on creating a Consolidation Resource Center and shifting the Branch’s emphasis from consolidation toward flexible sharing arrangements (FSAs) which we know as sharing of resources. Judge Vratil’s subcommittee will also draft a report making a permanent record of its work on the pilot and the conclusions it reached, to, in her words, “hopefully head off another assignment like this for a few years (at least).” These reports are to be presented to the Budget Committee by mid-August. Judge Vratil emphasized to me her “*strong expectation* that the NCBJ was serious when it said that FSAs are the way to go instead of vertical consolidation. *Time to put your money where your mouth is, more than ever....*” (Emphasis mine). Presumably this report will inform Budget’s, the Executive Committee’s, and JCUS’s actions during their fall meetings.

While the pilot appears dormant at this point, we believe that elements within the AO and the Judicial Conference still believe consolidation of some sort is a panacea for current and future budget problems, particularly in smaller courts. NCBJ needs to keep a wary eye on this process by continuing communications with our bankruptcy judge representatives on the JCUS committees with jurisdiction of it (CACM, Budget, and CABS). Keeping this committee in place may remain advisable.

On a personal note, I've notified President-elect Baer of my intention to step down as chair of this Committee at the Annual Meeting, not least because we need active judges to take a more active role in managing NCBJ's future responses to this cicada-like issue. We also need to educate our newer colleagues about how hard our predecessors fought for our independence as a court units and why that must remain the status quo.

Thank you for the opportunity to yet again serve NCBJ and special thanks to the members of this Committee who worked so hard to respond to CACM's questions and proposals, participated in listening sessions, and spoke truth to power about consolidation.

Respectfully submitted,

Bob Nugent, Chair