

RULE 87.4 | BANKRUPTCY APPEALS

Bankruptcy appeals to the District Court are governed by the Federal Rules of Bankruptcy Procedure, particularly Rules 8001 through 8028, and the Local Rules of the Bankruptcy Court. As is authorized by Federal Rule of Bankruptcy Procedure 8026, those rules are supplemented as follows:

(a) Assignment. Appeals from orders or judgments entered by the Bankruptcy Court shall generally be assigned in accordance with the Court's Internal Operating Procedures. Appeals from orders in a bankruptcy case or proceeding in which appeals have been taken from prior orders in the same case or proceeding shall be regarded as similar actions and proceedings under Local Rule 3.8 and it will be the continuing obligation of the Clerk of the District Court and the attorneys of record to comply with Local Rule 3.8.

(b) Docketing of Notice of Appeal in District Court. All notices of appeal filed in the Bankruptcy Court under Federal Rule of Bankruptcy Procedure 8003 and 8004 shall be electronically transmitted promptly to the Clerk of the District Court by the Bankruptcy Clerk resulting in the opening of a new civil case in District Court's automated case management system CM/ECF.

(c) Limited Authority of Bankruptcy Court to Enter Orders Prior to Transmittal of Record to District Court. After the notice of appeal is electronically transmitted to the District Court and a civil case is opened but before the record is transmitted to the District Court, the Bankruptcy Court is authorized and directed to dismiss an appeal for appellant's: (1) failure to pay the prescribed filing fees; (2) failure to comply with the time limitations specified in Federal Rule of Bankruptcy Procedure 8002; or (3) failure to file a designation of the items for the record or copies thereof or a statement of the issues as required by Federal Rule of Bankruptcy Procedure 8009, and Local Bankruptcy Rule 8009-1. The Bankruptcy Court is further authorized and directed to hear, under Federal Rule of Bankruptcy Procedure 9006(b), motions to extend the foregoing deadlines and to consolidate appeals that present similar issues from a common record. The Bankruptcy Court is also authorized to consider motions for stay pending appeal filed under Federal Rule of Bankruptcy Procedure 8007(a). Bankruptcy Court orders entered under this subsection shall be docketed in the Bankruptcy



Court docket and transmitted to the District Court for docketing in the District Court case. Bankruptcy Court orders entered under this subsection may be reviewed by the District Court on motion filed in the District Court within fourteen (14) days after entry of the order on the District Court docket. A motion seeking review shall be filed pursuant to section (d) of this Local Rule.

(d) Motions for Stay and Other Intermediate Requests for Relief. Motions for stay pending appeal filed in the District Court pursuant to Federal Rule of Bankruptcy Procedure 8007(b), motions to review Bankruptcy Court orders entered under Federal Rule of Bankruptcy Procedure 9006(b), and other motions requesting intermediate relief as set forth in Federal Rule of Bankruptcy Procedure 8010(c), shall be filed in the District Court case opened upon transmittal to the District Court of the notice of appeal and served on all parties. The movant shall designate any relevant portions of the Bankruptcy Court record necessary for the District Court to rule on the motion. It shall be the duty of the Clerk of the District Court immediately to transmit a copy of the order ruling on said motion to the Clerk of the Bankruptcy Court. Local Rules 5.1 and 7.1 shall apply to motions for stay and other motions seeking intermediate appellate relief from the District Court.

(e) Motions for Leave to Appeal. A motion for leave to appeal and notice of appeal shall be filed in the Bankruptcy Court pursuant to Local Bankruptcy Rule 8004-1 and served on all parties. Upon transmittal of the notice, motion, and related documents to the District Court, a civil case shall be opened as provided in subsection (b) of this Local Rule.

Upon disposition of the motion, the Clerk of the District Court immediately shall transmit a copy of the District Court order to the Clerk of the Bankruptcy Court. If the motion for leave to appeal is granted, the appeal will proceed under the original case number and the Clerk of the Bankruptcy Court will prepare and transmit the record on appeal.

(f) Briefs.

(1) *Briefing Schedule.* The briefing schedule specified by Federal Rule of Bankruptcy Procedure 8018 may be altered only by order of the District Court. If the Clerk of the District Court does not receive appellant's brief

within the time specified by Federal Rule of Bankruptcy Procedure 8018, and there is no motion for extension of time pending, the Clerk of the District Court shall furnish to the judge to whom the appeal is assigned a proposed order for dismissal of the appeal.

(2) *Form and Length of Briefs.* The form and length of briefs specified by Federal Rule of Bankruptcy Procedure 8015, and summarized in the Federal Rules of Bankruptcy Procedure Part VIII *Appendix: Length Limits Stated in Part VIII of the Federal Rules of Bankruptcy Procedures*, may be altered only by the order of the District Court. Failure to comply with Federal Rule of Bankruptcy Procedure 8015 may result in the striking of a brief. District Court Local Rules 5.1 and 7.1 do not apply to briefs governed by Federal Rule of Bankruptcy Procedure 8015.

(g) Oral Argument. Any party requesting oral argument shall make the request within the body of the principal or reply brief, not by separate motion. The setting of oral argument is within the discretion of the District Court.

(h) Judgment. Upon receipt of the District Court's opinion, the Clerk of the District Court shall enter judgment in accordance with Federal Rule of Bankruptcy Procedure 8024(a) and, in accordance with Federal Rule of Bankruptcy Procedure 8024(b), immediately shall transmit to each party and to the Clerk of the Bankruptcy Court a notice of entry together with a copy of the District Court's opinion.

(i) Appeal. If an appeal remains pending three (3) months after its entry on the District Court docket, the appealing party shall file and serve on all parties a "Notice of 90 Days Expiring" in the manner prescribed by Local Rule 7.1(b) (4).

(j) Notice. The Clerk of the Bankruptcy Court shall provide reference to this Local Rule with the notice of appeal provided to each party in accordance with Federal Rule of Bankruptcy Procedure 8003(c) (1). Failure to receive such a copy will not excuse compliance with all provisions of this Local Rule.

(k) Court Discretion. This Local Rule is not intended to exhaust or restrict the District Court's discretion as to any aspect of any appeal.



(1) Sealed Documents. Pursuant to Federal Rule of Bankruptcy Procedure 8009(f), if a document sealed by the Bankruptcy Court is to be included in the record on appeal, a motion must be filed in the District Court to accept the sealed document and served on all parties. If the motion is granted, the Bankruptcy Clerk promptly will transmit the sealed document to the District Court Clerk.

Effective April 15, 1996. Amended effective April 15, 1999; April 15, 2007; April 15, 2009; April 15, 2010; December 1, 2011; December 1, 2015; December 2, 2019.

Authority

Former Local Rule 27; (1996) renumbered from Local Rule 87.2 (1993).

