

(c) The bankruptcy appellate panel may hear and determine appeals from judgments, orders, and decrees entered by bankruptcy judges after September 17, 1984 and appeals transferred to this court from the previous Ninth Circuit Bankruptcy appellate panel by §115(b) of the Bankruptcy Amendments and Federal Judgeship Act of 1984, P.L. 98-353. The bankruptcy appellate panel may not hear and determine appeals from judgments, orders, and decrees entered by bankruptcy judges between December 25, 1982 and July 10, 1984, under the Emergency Bankruptcy Rules of this district.

2.02 Form and Time of Consent to Allow Appeal to be Heard and Determined by Appellate Panel.

(a) **General.** The consent of a party to allow an appeal to be heard and determined by the bankruptcy appellate panel shall be deemed to have been given unless written objection thereto is filed either (1) with the notice of appeal or motion for leave to appeal or (2) by any party with the bankruptcy court clerk within twenty-one (21) days from the date of the filing of such notice or motion. When an appellant files both a notice of appeal and a motion for leave to appeal, consent will be deemed revoked if an objection to BAP determination is filed with respect to either pleading.

(b) **Effect of Timely Objection.** Upon timely receipt of a written objection to an appeal being heard and determined by BAP, jurisdiction over the appeal shall be immediately transferred to the district court; the appeal shall be governed by the provision of 2.03 and the bankruptcy court clerk shall not forward any appeal documents, or any further documents, to the BAP. If the objection is timely, but filed after some of the appeal documents have been transferred to the BAP, the BAP clerk shall promptly return to bankruptcy court clerk all appellate documents for administration under 2.03.

2.03 Rules Governing Bankruptcy Appeals to be Determined by the District Court Subsequent to Filing of a Timely Objection to BAP determination.

(a) **General.** Practice in such bankruptcy appeals as may come before this district court shall be governed by Part VIII of the Federal Bankruptcy Rules of Procedure, except as provided in this Order or in rules subsequently adopted by this district court.

(b) **Place of Filing.** All documents required to be filed by the district or bankruptcy court local rules or orders, up to and including all briefs, shall be filed with the bankruptcy court clerk.

(c) **Extensions.** Unless reference of the case or proceeding underlying the appeal has been withdrawn, all motions for extensions of time period relating to appellate procedures, up through and including the time to file briefs, shall be filed with the bankruptcy court clerk and determined by a bankruptcy judge.

(d) **Designation/Excerpt of Record.** The designation of record required by Bankruptcy Rule 8006 shall be the documents contained in an "Excerpt of Record" which shall be filed by the parties with their briefs. The excerpt of record shall be separately bound and contain true copies of all portions of the bankruptcy files and records each party is relying on in the appeal unless another party has previously filed a copy of the identical portion of the bankruptcy file. Each excerpt shall begin with a table of contents.

2.04 Time for filing briefs. Notwithstanding subparagraph (a), the time for filing appellants's, appellee's and reply briefs for consideration by the district court shall be forty (40) days, thirty days thirty (30) days, and fourteen (14) days, respectively, in lieu of the time limits specified in Rule 8009(a) of the Federal Bankruptcy Rules of Procedure, provided, however, that the district court or the bankruptcy appellate panel may shorten these time limits in appropriate cases.

2.05 Service of Required Copies of Documents.

(a) If the appellant files a written objection to BAP determination with the notice of appeal or motion for leave to appeal, then the appellant must simultaneously serve on all other parties to the appeal a copy of the objection; a copy of the notice or motion; and a copy of the judgment, order or decree being appealed. Certification of such service shall be attached to the original notice of appeal or motion for leave to appeal filed with the bankruptcy court clerk.

(b) If a written objection to BAP determination is not filed at the same time as the notice of appeal or motion for leave to appeal, the party filing such notice or motion shall simultaneously file with the bankruptcy court clerk, for service, the following items for each party to the appeal (including the original appellant):

- (1) A copy of the original notice of appeal or motion for leave to appeal;
- (2) A conformed copy of the judgment, order or decree being appealed;
- (3) A copy of the most current version of the bankruptcy court's Notice of Referral of appeal to Bankruptcy Appellate Panel applicable on that date, completed, except for the date and signature line; and
- (4) A stamped, addressed envelope (or self-adhesive mailing label).

In addition to the service of the above documents, the bankruptcy court clerk shall serve a copy of the current General Order No. 38 on each party to the appeal.

2.06 Documents Filed During Objection Period.

All documents relating to the appeal shall be filed with the bankruptcy court clerk during the objection period, even if a motion requiring BAP determination is filed before the termination of such period. The BAP may not dismiss or render a final disposition of

an appeal within twenty-one(21) days from the date of the filing of the notice of appeal.

2.07 Transmittal of Appeal Documents to the BAP.

The bankruptcy court clerk shall immediately forward all appeal documents to the BAP either upon termination of the objection period set forth in 2.02 or upon the filing of a motion requiring BAP determination, whichever is earlier.

PART III: EFFECTIVE DATE

This Order shall become effective immediately and supersede all previous orders of this court regarding bankruptcy cases, proceedings, and appeals provided, however, that all prior actions of the bankruptcy appellate panel not inconsistent herewith are not affected by this Order.

IT IS SO ORDERED:

Dated this 27th day of October 1991.


HAROLD L. RYAN, Chief
UNITED STATES DISTRICT JUDGE


ALFRED C. HAGAN, Chief
UNITED STATES BANKRUPTCY JUDGE

CERTIFICATE OF MAILING

I, the undersigned, hereby certify that I mailed a true copy of the document to which this certificate is attached, to the following named persons(s) at the following addresses on the date shown below:

Court Administration Division
United States Courts
Washington, DC 20544

Director of Administrative Office
United States Courts
Washington, DC 20544

Clerks Division
Administrative Office
United States Courts
Washington DC 20544

General counsel;s Office
Administrative Office
United States Courts
Washington, DC 20544

Bridgett Norton
Bankruptcy Division
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Washington, DC 20544

Library, Federal Judicial Center
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Washington, DC 20544

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Circuit Executive of 9th Circuit
POB 42068
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Director of Libraries
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DATED: *Oct. 24, 1991*

CAMERON S. BURKE, Clerk
US BANKRUPTCY COURT

BY


Deputy in Charge

CLERK'S CERTIFICATE OF MAILING

I hereby certify that a copy of the attached document was mailed to the following named persons:

Harold L. Ryan
Chief, U.S. District Judge

Alfred C. Hagan
Chief, U.S. Bankruptcy Judge

Edward J. Lodge
U.S. District Judge

Jim Pappas
U.S. Bankruptcy Judge

Marion J. Callister
Senior, U.S. District Judge

Stephen Trott
Ninth Circuit Judge

Mikel H. Williams
U.S. Magistrate Judge

Thomas G. Nelson
Ninth Circuit Judge

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DATED: November 7, 1991

CAMERON S. BURKE, CLERK

By: Suzanne M. Butler
Deputy Clerk