

AMENDMENTS TO THE FEDERAL RULES OF APPELLATE PROCEDURE

Rule 1. Scope of rules.

(a) *Scope of rules.*—These rules govern procedure in appeals to United States courts of appeals from the United States district courts and the United States Tax Court; in appeals from bankruptcy appellate panels; in proceedings in the courts of appeals for review or enforcement of orders of administrative agencies, boards, commissions and officers of the United States; and in applications for writs or other relief which a court of appeals or a judge thereof is competent to give. When these rules provide for the making of a motion or application in the district court, the procedure for making such motion or application shall be in accordance with the practice of the district court.

Rule 3. Appeal as of right—how taken.

(a) *Filing the notice of appeal.*—An appeal permitted by law as of right from a district court to a court of appeals shall be taken by filing a notice of appeal with the clerk of the district court within the time allowed by Rule 4. Failure of an appellant to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is ground only for such action as the court of appeals deems appropriate, which may include dismissal of the appeal. Appeals by permission under 28 U. S. C. § 1292(b) and appeals in bankruptcy shall be taken in the manner prescribed by Rule 5 and Rule 6 respectively.

Rule 6. Appeals in bankruptcy cases from final judgments and orders of district courts or of bankruptcy appellate panels.

(a) *Appeal from a judgment, order or decree of a district court exercising original jurisdiction in a bankruptcy case.* — An appeal to a court of appeals from a final judgment, order or decree of a district court exercising jurisdiction pursuant to 28 U. S. C. § 1334 shall be taken in identical fashion as appeals from other judgments, orders or decrees of district courts in civil actions.

(b) *Appeal from a judgment, order or decree of a district court or bankruptcy appellate panel exercising appellate jurisdiction in a bankruptcy case.* —

(1) *Applicability of other rules.* All provisions of these rules are applicable to an appeal to a court of appeals pursuant to 28 U. S. C. § 158(d) from a final judgment, order or decree of a district court or bankruptcy appellate panel exercising appellate jurisdiction pursuant to 28 U. S. C. § 158(a) or (b); except that:

(i) Rules 3.1, 4(a)(4), 4(b), 5.1, 9, 10, 11, 12(b), 13–20, 22–23, and 24(b) are not applicable;

(ii) the reference in Rule 3(c) to “Form 1 in the Appendix of Forms” shall be read as a reference to Form 5; and

(iii) when the appeal is from a bankruptcy appellate panel, the term “district court” as used in any applicable rule, means “appellate panel.”

(2) *Additional rules.* In addition to the rules made applicable by subsection (b)(1) of this rule, the following rules shall apply to an appeal to a court of appeals pursuant to 28 U. S. C. § 158(d) from a final judgment, order or decree of a district court or of a bankruptcy appellate panel exercising appellate jurisdiction pursuant to 28 U. S. C. § 158(a) or (b):

(i) *Effect of motion for rehearing on time for appeal.* If a timely motion for rehearing under Bankruptcy Rule 8015 is filed in the district court or the bankruptcy appellate panel, the time for appeal to the court of appeals for

all parties shall run from the entry of the order denying the rehearing or the entry of the subsequent judgment.

(ii) The Record on Appeal. Within 10 days after filing the notice of appeal, the appellant shall file with the clerk possessed of the record assembled pursuant to Bankruptcy Rule 8006, and serve on the appellee, a statement of the issues to be presented on appeal and a designation of the record to be certified and transmitted to the clerk of the court of appeals. If the appellee deems other parts of the record necessary, the appellee shall, within 10 days after service of the appellant's designation, file with the clerk and serve on the appellant a designation of additional parts to be included. The record, redesignated as provided above, plus the proceedings in the district court or bankruptcy appellate panel and a certified copy of the docket entries prepared by the clerk pursuant to Rule 3(d) shall constitute the record on appeal.

(iii) Transmission of the record. When the record is complete for purpose of the appeal, the clerk of the district court or the appellate panel, shall transmit it forthwith to the clerk of the court of appeals. The clerk of the district court or of the appellate panel shall number the documents comprising the record and shall transmit with the record a list of documents correspondingly numbered and identified with reasonable definiteness. Documents of unusual bulk or weight, physical exhibits other than documents, and such other parts of the record as the court of appeals may designate by local rule, shall not be transmitted by the clerk unless the clerk is directed to do so by a party or by the clerk of the court of appeals. A party must make advance arrangements with the clerk for the transportation and receipt of exhibits of unusual bulk or weight. All parties shall take any other action necessary to enable the clerk to assemble and transmit the record. The court of appeals may provide by rule or order that a certified copy of the docket entries shall be transmitted in lieu of the redesignated record, subject to the right of any party to request

at any time during the pendency of the appeal that the redesignated record by transmitted.

(iv) Filing of the record. Upon receipt of the record, the clerk of the court of appeals shall file it and shall immediately give notice to all parties of the date on which it was filed. Upon receipt of a certified copy of the docket entries transmitted in lieu of the redesignated record pursuant to rule or order, the clerk of the court of appeals shall file it and shall immediately give notice to all parties of the date on which it was filed.

Rule 26. Computation and extension of time.

(a) *Computation of time.*—In computing any period of time prescribed or allowed by these rules, by an order of court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, or, when the act to be done is the filing of a paper in court, a day on which weather or other conditions have made the office of the clerk of the court inaccessible, in which event the period runs until the end of the next day which is not one of the aforementioned days. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. As used in this rule “legal holiday” includes New Year’s Day, Birthday of Martin Luther King, Jr., Washington’s Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President or the Congress of the United States. It shall also include a day appointed as a holiday by the state wherein the district court which rendered the judgment or order which is or may be appealed from is situated, or by the state wherein the principal office of the clerk of the court of appeals in which the appeal is pending is located.

Rule 26.1. Corporate disclosure statement.

Any non-governmental corporate body party to a civil or bankruptcy case or agency review proceeding and any non-governmental corporate defendant in a criminal case shall file a statement identifying all parent companies, subsidiaries (except wholly-owned subsidiaries), and affiliates that have issued shares to the public. The statement shall be filed with a party's principal brief or upon filing a motion, response, petition or answer in the court of appeals, whichever first occurs, unless a local rule requires earlier filing. The statement shall be included in front of the table of contents in a party's principal brief even if the statement was previously filed.

Rule 27. Motions.

(a) *Content of motions; response.*—Unless another form is elsewhere prescribed by these rules, an application for an order or other relief shall be made by filing a motion for such order or relief with proof of service on all other parties. The motion shall contain or be accompanied by any matter required by a specific provision of these rules governing such a motion, shall state with particularity the grounds on which it is based, and shall set forth the order or relief sought. If a motion is supported by briefs, affidavits or other papers, they shall be served and filed with the motion. Any party may file a response in opposition to a motion other than one for a procedural order [for which see subdivision (b)] within 7 days after service of the motion, but motions authorized by Rules 8, 9 18 and 41 may be acted upon after reasonable notice, and the court may shorten or extend the time for responding to any motion.

Rule 28. Briefs.

(g) *Length of briefs.*—Except by permission of the court, or as specified by local rule of the court of appeals, principal briefs shall not exceed 50 pages, and reply briefs shall not ex-

ceed 25 pages, exclusive of pages containing the corporate disclosure statement, table of contents, tables of citations and any addendum containing statutes, rules, regulations, etc.

FORM 5. NOTICE OF APPEAL TO A COURT OF APPEALS FROM A JUDGMENT OR ORDER OF A DISTRICT COURT OR A BANKRUPTCY APPELLATE PANEL

United States District Court for the
District of

In re)
)
)
Debtor)
)
)
Plaintiff) File No.
)
)
v.)
)
)
Defendant)

Notice of Appeal to
United States Court of Appeals for the Circuit

....., the plaintiff [or defendant or other party] appeals to the United States Court of Appeals for the Circuit from the final judgment [or order or decree] of the district court for the district of [or bankruptcy appellate panel of the circuit], entered in this case on, 19.... [here describe the judgment, order, or decree]

The parties to the judgment [or order or decree] appealed from and the names and addresses of their respective attorneys are as follows:

Dated

Signed

Attorney for Appellant

Address:

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