

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE**

GUIDE: HIGHLIGHTS OF IMPORTANT INFORMATION FOR APPEALS*

(with reference to the attached excerpts from the Federal Rules of Bankruptcy Procedure [Fed. R. Bankr. P.]; the Local Bankruptcy Rules and Forms [L.B.R.], effective, as amended, December 1, 1995; Title 28 U.S. Code [28 U.S.C.]; and the Sixth Circuit Bankruptcy Appellate Panel Rules [6th Cir. BAP. R.]).

- ! Deadline to file Notice of Appeal - within 14 days of entry of the judgment, order, or decree appealed from. (See page 3, #1)

- ! All appeals are referred to the Bankruptcy Appellant Panel for the Sixth Circuit (“ the BAP”). If an Appellant or Cross Appellant wishes to have the appeal heard by the U.S. District Court, the party must file an election to be heard by the U.S. District Court with the U.S. Bankruptcy Court AT THE SAME TIME (and by separate document) as the filing of the Notice of Appeal. Other parties to the appeal may file an election to be heard by the U.S. District Court with the BAP within 30 days of service of the Notice of Appeal. (See page 3, #2)

- ! Filing fee for a Notice of Appeal of a final judgment, order, or decree is \$298 payable to the Bankruptcy Court Clerk. (See page 3, #1)

- ! Appellant is to file the designation of items to be included in the record on appeal and statement of the issues to be presented within 14 days of filing of Notice of Appeal. (See page 3, #3)

- ! If a transcript will be needed, PLEASE ORDER IT RIGHT AWAY through the Electronic Court Recording Officer. (See page 3, #4)

- ! Regarding bankruptcy cases (not appeals) filed after January 2004, all records, except transcripts and exhibits, are available through CM/ECF. The filing parties do not have to provide copies of designated items. Check with the Appeals Clerk (901-328-3503) to see if you must provide any copies of designated items or make arrangements for Court to provide copies AT THE TIME OF DESIGNATION. (See page 3, #5)

- ! Appellee has 14 days after service of Appellant’s statement of issues to file a designation of additional items to be included in the record on appeal, as well as a statement of the issues if the Appellee is a Cross Appellant. (See page 4, #7)

- ! Cross appeals may be filed within 14 days of the filing date of the original Notice of Appeal. The filing fee is \$298. Cross Appellant’s statement of issues and designation of record is to be filed within 14 days of the filing of original Appellant’s statement of issues. (See page 4, #8)

- ! Appeal from an *interlocutory* judgment, order, or decree also requires the filing of a Notice of Appeal as well as a Motion for Leave to Appeal, and Proof of Service. The filing fee is \$298. An adverse party has 14 days after service of motion to file an answer in opposition. . (See page 4, #9)

- ! Certification pursuant to 28 U.S.C. §158(d)(2) for direct review of bankruptcy court decisions by the Court of Appeals - details set forth herein. (See page 5)

**The information listed in this Guide is for informational purposes only and is in no way intended as a substitute for legal counsel, nor is it to be construed as a ‘complete’ guide to appeals.*

LIST OF RELEVANT TERMS

1. Appeal *- Resort to a higher court to review the decision of a lower court.
2. Appellant* - The party who takes an appeal from one court to another.
3. Appellee* - The party in a case against whom an appeal is taken; that is, the party who has an interest adverse to setting aside or reversing the judgment.
4. "Date of Entry" - (as applies to appeals in the U. S. Bankruptcy Court) Refers to the date the order, judgment, or decree is entered on the court docket. A "docket sheet" is maintained by the Court Clerk's Office on every bankruptcy case and adversary proceeding, and contains a brief description of all activities in each case or proceeding. **See FED. R. BANKR. P. 5003.**
5. Decree* - The judgment of a court of equity or chancery, answering for most purposes to the judgment of a court of law; or a court's final judgment.
6. Judgment* - A court's final determination of the rights and obligations of the parties in a case.
Note: **FED. R. BANKR. P. 9021. Entry of Judgment.**
"Every judgment entered in an adversary proceeding or contested matter shall be set forth on a separate document. A judgment is effective when entered as provided in Rule 5003"
7. Order* -
 - (a) FINAL ORDER - An order that is dispositive of the entire proceeding or case.
 - (b) INTERLOCUTORY ORDER - An order that relates to some intermediate matter in the proceeding or case; any order other than a final order.
8. Bankruptcy Appellate Panel ("**BAP**") - A service composed of bankruptcy judges of the districts in the Circuit who are appointed by the judicial council under 28 U.S.C. § 158(b) to hear and determine, with the consent of all parties, appeals under 28 U.S.C. § 158(a).
9. Transcript* - An official copy of the record of proceedings in a trial or hearing. Word-for-word typing of everything that was said "on the record" during the trial or hearing. (See page 3, #3)

* **Definitions derived from BLACK'S LAW DICTIONARY, 8th ed. (2004)**

1. **Appeal as of Right** - To appeal from a final judgment, order, or decree of the U. S. Bankruptcy Court, the Appellant must file a notice of appeal with the Clerk of the Bankruptcy Court. The notice of appeal must conform with Official Bankruptcy Form 17 (example provided on page 7 of this guide) and must contain: (1) the names of all parties to the judgment, order, or decree appealed from, (2) the names, addresses and telephone numbers of their respective attorneys, (3) be accompanied by the prescribed fee. **FED. R. BANKR. P. 8001(a)**. For filing a separate or joint notice of appeal from a final judgment of a bankruptcy judge, a \$298 fee shall be paid to the Bankruptcy Court Clerk by the appellant or petitioner. **See 28 U.S.C. § 1930(c) and Appendix to 28 U.S.C. § 1930, Item (14) of the Miscellaneous Fee Schedule**. The notice of appeal shall be filed within 14 days of the date of entry of the judgment, order, or decree appealed from. **FED. R. BANKR. P. 8002(a)**.

2. Appeals filed in the Western District of Tennessee are referred to the Bankruptcy Appellate Panel (“BAP”) for the Sixth Circuit, **28 U.S.C. § 158(b)(1)**, unless an election to be heard by the U.S. District Court is filed by the Appellant or Cross Appellant with the U.S. Bankruptcy Court at the same time (and by separate document) as the filing of the appeal. Any other party to the appeal may file with the Bankruptcy Appellate Panel an election to have the appeal heard by the U.S. District Court within 30 days of service of the Notice of Appeal. **28 U.S.C. § 158(c)(1)**. However, the filing by any other party of any paper other than a notice of appearance with the BAP waives the time remaining in the 30-day period for that party to elect to have the appeal heard by the district court. **6th Cir. BAP R. 8001-3(a)(2)**.

3. Within 14 days after filing the Notice of Appeal, the Appellant must file with the Clerk of the Bankruptcy Court, a designation of the items to be included in the record on appeal and a statement of the issues presented. The Appellant must also serve a copy of these documents on the Appellee. **FED. R. BANKR. P. 8006**. The designation of record must identify the specific items, document by document, that the Appellant wishes to include in the record on appeal. Vague descriptions or catch-all designations of the items such as “all bankruptcy files” or “the entire case and/or proceeding record” are not acceptable. Likewise, the statement of issues should be specific and concise. **L.B.R. 8006-1(a)**.

4. With regard to any designated record which includes a transcript of any proceeding or a part thereof, the filing party shall, immediately after filing the designation, file with the Clerk of the Bankruptcy Court a written request for the transcript and make satisfactory arrangements for payment of its cost. **FED. R. BANKR. P. 8006**. A “Transcript Order” form must be used and may be obtained from the Electronic Court Recording Officers; all payment arrangements are made through this department as well. *Please call for details:*

Jackson Division - 731-421-9315.

Memphis Division - Courtroom of Chief Judge David S. Kennedy - 901-328-3576
Courtroom of Judge Jennie D. Latta - 901-328-3575
Courtroom of Judge George W. Emerson - 901-328-3574
Courtroom of Judge Paulette J. Delk - 901-328-3577

5. Any party filing a designation of items shall, *at the time of designation*, provide to the Clerk of the Bankruptcy Court one copy of each designated item not available through CM/ECF if the appeal is to be presented to BAP. If the appeal is to be presented to the U.S. District Court, two copies of each such designated item are required, with the exception of transcripts and exhibits, for which only one copy is required. *If copies are provided, please do not staple them to the designation of record*. If the filing party would prefer that the Bankruptcy Court Clerk’s Office provide the necessary copies, copies will be made at a charge of \$.50 per page. Payment must be received in advance, by cashier’s check, money order, or business check; we do not accept any personal checks. *To make arrangements with regard to copies, call the Appeals Clerk (as soon as the designation of records is filed) at: Memphis Division - 901-328-3503; Jackson Division - 731-421-9307*. If a designated item is not on file with this Court, the appropriate number of copies of said item **MUST** be provided for inclusion in the record on appeal.

6. Failure to submit the designation of record or statement of issues within the time frame listed above may result in the dismissal of the appeal by the BAP or the U.S. District Court. **FED. R. BANKR. P. 8001**.

7. Within 14 days after service of the Appellant’s statement of the issues, the Appellee also may file with the Clerk of the Bankruptcy Court a designation of additional items to be included in the record on appeal and serve a copy of the

designation on the Appellant. **FED. R. BANKR. P. 8006.** *Failure to identify specifically the items to be included in the designation of record and failure to order and/or pay for transcripts may result in the issuance of a “Deficiency Notice Regarding Appeals” which will delay the processing of the appeal. Failure to submit the items as required by the deficiency notice OR failure to supply copies or pay for copies supplied by the Clerk will result in possible dismissal of the appeal by the BAP or the U.S. District Court.*

CROSS APPEALS

8. Pursuant to **FED. R. BANKR. P. 8002(a)**, any other party may file a notice of appeal within 14 days of the date on which the first notice of appeal was filed. A notice of appeal filed within the additional 14 day period by an appellee is a “cross appeal.” For filing a separate or joint notice of appeal, \$298 shall be paid to the clerk of the court by the Appellant. **28 U.S.C. § 1930(c); Appendix to 28 U.S.C. § 1930 Item (14) of the Miscellaneous Fee Schedule.** Within 14 days after the service of the Appellant’s statement, the Cross Appellant must file and serve a statement of the issues presented on the cross appeal and a designation of additional items to be included in the record. A Cross Appellee may, within 14 days of service of the Cross Appellant’s statement, file and serve on the Cross Appellant a designation of additional items to be included in the record. **Fed. R. Bankr. P. 8006.** The rules listed above with regard to the elections to be heard by the U.S. District Court, designation of record, transcripts, or copies are applicable to cross appeals as well.

APPEAL BY LEAVE

9. An appeal from an *interlocutory* (interim) judgment, order, or decree is taken by filing (1) a notice of appeal as described in paragraph 1 above, (2) a motion for leave to appeal, and (3) proof of service in accordance with **FED. R. BANKR. P. 8008** (a copy of the rule can be found on page 10 of this guide). **FED. R. BANKR. P. 8001 (b).** Pursuant to **FED. R. BANKR. P. 8003 (a)**, the motion for leave to appeal must list: (1) a statement of the facts necessary to an understanding of the questions to be presented by the appeal; (2) a statement of those questions and of the relief sought; (3) a statement of the reasons why an appeal should be granted, and (4) a copy of the judgment, order, or decree complained of and of any opinion or memorandum relating thereto. *Within 14 days after service of the motion an adverse party may file with the Clerk of the Bankruptcy Court an answer in opposition.* Upon the filing of ANY separate or joint notice of appeal, two hundred, fifty-five (\$298) dollars shall be paid to the Clerk of the U.S. Bankruptcy Court by the Appellant. **28 U.S.C. § 1930(c); Appendix to 28 U.S.C. § 1930 Item (14) of the Miscellaneous Fee Schedule.**

10. An election to be heard by the U.S. District Court must be filed by the moving party with the U.S. Bankruptcy Court at the same time (and by separate document) as the filing of the motion for leave to appeal. Any other party to the appeal may file with the U.S. Bankruptcy Court an election to be heard by the U.S. District Court within 30 days of service of the motion for leave to appeal. However, the filing by any other party of any paper other than a notice of appearance with the BAP waives the time remaining in the 30-day period for that party to elect to have the appeal heard by the district court. **6th Cir. BAP. R. 8001-3(a)(2).**

11. If an order is entered granting leave for an interlocutory appeal, the parties must follow the procedures as outlined in paragraphs 2 through 7 of this guide. Designation of record and statement of issues on appeal should be filed within 14 days of entry of the order granting leave to appeal. **FED. R. BANKR. P. 8006.**

CERTIFICATION PURSUANT TO 28 U.S.C. § 158(d)(2) FOR DIRECT REVIEW OF BANKRUPTCY COURT DECISIONS BY THE COURTS OF APPEALS

An appeal filed under 28 U.S.C. § 158(d)(2) may be transferred to the appropriate court of appeals if the bankruptcy court, district court, or the BAP (on its own motion or on request of the parties) certifies that the appeal -

- involves a question of law on which there is no controlling circuit or Supreme Court authority or involves a matter of public importance; or

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- involves a question of law requiring resolution of conflicting decisions; or
- an immediate appeal may materially advance the progress of the case or proceeding from which the appeal is taken;

The court of appeals must authorize and accept the direct appeal of the judgment, order, or decree. The parties may supplement the certification with a short statement of the basis for the certification. Such an appeal does not stay any proceeding of the bankruptcy court, district court or the BAP from which the appeal is taken unless the respective court in which the appeal is heard issues a stay of the proceeding pending the appeal.

Any request by a party for a certification under 28 U.S.C. § 158(d)(2) must be filed not later than 60 days after entry of the judgment, order or decree.

Rule 8001. Manner of Taking Appeal; Voluntary Dismissal.

(a) Appeal as of Right; How Taken. An appeal from a judgment, order, or decree of a bankruptcy judge to a district court or bankruptcy appellate panel as permitted by 28 U.S.C. § 158(a)(1) or (a)(2) shall be taken by filing a notice of appeal with the clerk within the time allowed by Rule 8002. An appellant's failure to take any step other than timely filing a notice of appeal does not affect the validity of the appeal, but is ground only for such action as the district court or bankruptcy appellate panel deems appropriate, which may include dismissal of the appeal. The notice of appeal shall (1) conform substantially to the appropriate Official Form, (2) contain the names of all parties to the judgment, order, or decree appealed from and the names, addresses and telephone numbers of their respective attorneys, and (3) be accompanied by the prescribed fee. Each appellant shall file a sufficient number of copies of the notice of appeal to enable the clerk to comply promptly with Rule 8004.

(b) Appeal by Leave; How Taken. An appeal from an interlocutory judgment, order or decree of a bankruptcy judge as permitted by 28 U.S.C. § 158(a)(3) shall be taken by filing a notice of appeal, as prescribed in subdivision (a) of this rule, accompanied by a motion for leave to appeal prepared in accordance with Rule 8003 and with proof of service in accordance with Rule 8008.

(c) Voluntary Dismissal.

(1) Before Docketing. If an appeal has not been docketed, the appeal may be dismissed by the bankruptcy judge on the filing of a stipulation for dismissal signed by all the parties, or on motion and notice by the appellant.

(2) After Docketing. If an appeal has been docketed and the parties to the appeal sign and file with the clerk of the district court or the clerk of the bankruptcy appellate panel an agreement that the appeal be dismissed and pay any court costs or fees that may be due, the clerk of the district court or the clerk of the bankruptcy appellate panel shall enter an order dismissing the appeal. An appeal may also be dismissed on motion of the appellant on terms and conditions fixed by the district court or bankruptcy appellate panel.

(d) [Abrogated]

(e) ELECTION TO HAVE APPEAL HEARD BY DISTRICT COURT INSTEAD OF BANKRUPTCY APPELLATE PANEL An election to have an appeal heard by the district court under 28 U.S.C. § 158(c)(1) may be made only by a statement of election contained in a separate writing filed within the time prescribed by 28 U.S.C. § 158(c)(1).¹

¹ The effective dates of the amendments to Rule 8001 is December 1, 1997.

Form 17. Notice of Appeal Under 28 U.S.C. § 158(a) or (b) From a Judgment, Order, or Decree of a Bankruptcy Judge.

Form B17 (Official Form 17)
(9/97)

Form 17. NOTICE OF APPEAL UNDER 28 U.S.C. § 158(a) OR (b) FROM A JUDGMENT, ORDER, OR DECREE OF A BANKRUPTCY JUDGE

[Caption as in Form 16A, 16B, or 16D, as appropriate]

NOTICE OF APPEAL

_____, the plaintiff [or defendant or other party] appeals under 28 U.S.C. § 158(a) or (b) from the judgment, order, or decree of the bankruptcy judge (describe) entered in this adversary proceeding (*or other proceeding, describe type*) on the ____ day of _____, (year)

The names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their respective attorneys are as follows:

Dated: _____

Signed: _____
Attorney for Appellant (or Appellant, if not represented by an Attorney)

Attorney Name: _____

Address: _____

Telephone No. _____

If a Bankruptcy Appellate Panel Service is authorized to hear this appeal, each party has a right to have the appeal heard by the district court. The appellant may exercise this right only by filing a separate statement of election at the time of filing of this notice of appeal. Any other party may elect, within the time provided in 28 U.S.C. § 158(c), to have the appeal heard by the district court.

Rule 8002. Time for Filing Notice of Appeal.

(a) Fourteen-Day Period. The notice of appeal shall be filed with the clerk within 14 days of the date of the entry of the judgment, order, or decree appealed from. If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within 14 days of the date on which the first notice of appeal was filed, or within the time otherwise prescribed by this rule, whichever period last expires. A notice of appeal filed after the announcement of a decision or order but before entry of the judgment, order, or decree shall be treated as filed after such entry and on the day thereof. If a notice of appeal is mistakenly filed with the district court or the bankruptcy appellate panel, the clerk of the district court or the clerk of the bankruptcy appellate panel shall note thereon the date on which it was received and transmit it to the clerk and it shall be deemed filed with the clerk on the date so noted.

(b) Effect of Motion on Time for Appeal. If any party makes a timely motion of a type specified immediately below, the time for appeal for all parties runs from the entry of the order disposing of the last such motion outstanding. This provision applies to a timely motion: (1) to amend or make additional findings of fact under Rule 7052, whether or not granting the motion would alter the judgment (2) to alter or amend the judgment under Rule 9023; (3) for a new trial under Rule 9023; or (4) for relief under Rule 9024 if the motion is filed no later than 14 days after the entry of judgment. A notice of appeal filed after announcement or entry of the judgment, order, or decree but before disposition of any of the above motions is ineffective to appeal from the judgment, order, or decree, or part thereof, specified in the notice of appeal, until the entry of the order disposing of the last such motion outstanding. Appellate review of an order disposing of any of the above motions requires the party, in compliance with Rule 8001, to amend a previously filed notice of appeal. A party intending to challenge an alteration or amendment of the judgment, order, or decree shall file a notice, or an amended notice, or appeal within the time prescribed by this Rule 8002 measured from the entry of the order disposing of the last such motion outstanding. No additional fees will be required for filing an amended notice.

(c) Extension of Time for Appeal.

(1) The bankruptcy judge may extend the time for filing the notice of appeal by any party, unless the judgment, order, or decree appealed from:

- (A) grants relief from an automatic stay under § 362, § 922, § 1201, or § 1301;
- (B) authorizes the sale or lease of property or the use of cash collateral under § 363;
- (C) authorizes the obtaining of credit under § 364;
- (D) authorizes the assumption or assignment of an executory contract or unexpired lease under § 365;
- (E) approves a disclosure statement under § 1125; or
- (F) confirms a plan under § 943, § 1225, or § 1325 of the Code.

(2) A request to extend the time for filing a notice of appeal must be made by written motion filed before the time for filing a notice of appeal has expired, except that such a motion filed not later than 21 days after the expiration of the time for filing a notice of appeal may be granted upon a showing of excusable neglect. An extension of time for filing a notice of appeal may not exceed 21 days from the expiration of the time for filing a notice of appeal otherwise prescribed by this rule or 14 days from the date of entry of the order granting the motion, whichever is later.¹

¹ The amendment to Rule 8002 is effective December 1, 1997.

Rule 8003. Leave to Appeal.

(a) Content of Motion; Answer. A motion for leave to appeal under 28 U.S.C. § 158(a) shall contain: (1) a statement of the facts necessary to an understanding of the questions to be presented by the appeal; (2) a statement of those questions and of the relief sought; (3) a statement of the reasons why an appeal should be granted; and (4) a copy of the judgment, order, or decree complained of and of any opinion or memorandum relating thereto. Within 14 days after service of the motion an adverse party may file with the clerk an answer in opposition.

(b) Transmittal; Determination of Motion. The clerk shall transmit the notice of appeal, the motion for leave to appeal and any answer thereto to the clerk of the district court or the clerk of the bankruptcy appellate panel as soon as all parties have filed answers or the time for filing an answer has expired. The motion and answer shall be submitted without oral argument unless otherwise ordered.

(c) Appeal Improperly Taken Regarded as a Motion for Leave to Appeal. If a required motion for leave to appeal is not filed, but a notice of appeal is timely filed, the district court or bankruptcy appellate panel may grant leave to appeal or direct that a motion for leave to appeal be filed. The district court or the bankruptcy appellate panel may also deny leave to appeal but in so doing shall consider the notice of appeal as a motion for leave to appeal. Unless an order directing that a motion for leave to appeal be filed provides otherwise, the motion shall be filed within 14 days of entry of the order.

Rule 8006. Record and Issues on Appeal.

Within 14 days after filing the notice of appeal as provided by Rule 8001(a), entry of an order granting leave to appeal, or entry of an order disposing of the last timely motion outstanding of a type specified in Rule 8002(b), whichever is later, the appellant shall file with the clerk and serve on the appellee a designation of the items to be included in the record on appeal and a statement of the issues to be presented. Within 14 days after the service of the appellant's statement the appellee may file and serve on the appellant a designation of additional items to be included in the record on appeal and, if the appellee has filed a cross appeal, the appellee as cross appellant shall file and serve a statement of the issues to be presented on the cross appeal and a designation of additional items to be included in the record. A cross appellee may, within 14 days of service of the cross appellant's statement of issues file and serve on the cross appellant a designation of additional items to be included in the record. The record on appeal shall include the items so designated by the parties, the notice of appeal, the judgment, order, or decree appealed from, and any opinion, findings of fact, and conclusions of law of the court. Any party filing a designation of the items to be included in the record shall provide to the clerk a copy of the items designated or, if the party fails to provide the copy, the clerk shall prepare the copy at the party's expense. If the record designated by any party includes a transcript of any proceeding or a part thereof, the party shall, immediately after filing the designation, deliver to the reporter and file with the clerk a written request for the transcript and make satisfactory arrangements for payment of its cost. All parties shall take any other action necessary to enable the clerk to assemble and transmit the record.

Rule 8008. Filing and Service.

(a) Filing. Papers required or permitted to be filed with the clerk of the district court or the clerk of the bankruptcy appellate panel may be filed by mail addressed to the clerk, but filing is not timely unless the papers are received by the clerk within the time fixed for filing, except that briefs are deemed filed on the day of mailing. An original and one copy of all papers shall be filed when an appeal is to the district court; an original and three copies shall be filed when an appeal is to a bankruptcy appellate panel. The district court or bankruptcy appellate panel may require that additional copies be furnished. Rule 5005(a)(2) applies to papers filed with the clerk of the district court or the clerk of the bankruptcy appellate panel if filing by electronic means is authorized by local rule promulgated pursuant to Rule 8018.

(b) Service of All Papers Required. Copies of all papers filed by any party and not required by these rules to be served by the clerk of the district court or the clerk of the bankruptcy appellate panel shall, at or before the time of filing, be served by the party or a person acting for the party on all other parties to the appeal. Service on a party represented by counsel shall be made on counsel.

(c) Manner of Service. Service may be personal or by mail. Personal service includes delivery of the copy to a clerk or other responsible person at the office of counsel. Service by mail is complete on mailing.

(d) Proof of Service. Papers presented for filing shall contain an acknowledgment of service by the person served or proof of service in the form of a statement of the date and manner of service and of the names of the persons served, certified by the person who made service. The clerk of the district court or the clerk of the bankruptcy appellate panel may permit papers to be filed without acknowledgment or proof of service but shall require the acknowledgment or proof of service to be filed promptly thereafter.

28 U.S.C. § 1930. Bankruptcy fees.

(c) Upon the filing of any separate or joint notice of appeal or application for appeal or upon the receipt of any order allowing, or notice of the allowance of, an appeal or a writ of certiorari \$5 shall be paid to the clerk of the court, by the appellant or petitioner.

Appendix to 28 U.S.C. § 1930. Bankruptcy Court Fee Schedule

Item (14) For filing an appeal or cross appeal from a final judgment, \$293.

This fee is collected in addition to the statutory fee of \$5 that is collected under 28 U.S.C. § 1930(c) when a notice of appeal is filed.

Parties filing a joint notice of appeal should pay only one fee.

If a trustee or debtor-in-possession is the appellant, the fee must be payable only from the estate and to the extent there is any estate realized.

28 U.S.C. § 158(b)(1). Appeals

(b)(1) The judicial council of a circuit shall establish a bankruptcy appellate panel service composed of bankruptcy judges of the districts in the circuit who are appointed by the judicial council in accordance with paragraph (3), to hear and determine, with the consent of all the parties, appeals under subsection (a) . . .

28 U.S.C. § 158(c)(1). Appeals

(c)(1) Subject to subsections (b) and (d)(2), each appeal under subsection (a) shall be heard by a 3-judge panel of the bankruptcy appellate panel service established under subsection (b)(1) unless -

(A) the appellant elects at the time of filing the appeal; or

(B) any other party elects, not later than 30 days after service of notice of the appeal; to have such appeal heard by the district court.

L.B.R. 8006-1. Designation of Record

(a) When the appellant and appellee file the FED. R. BANKR. P. 8006 designations of the items to be included in the record on appeal and statements of the issues to be presented, such designations of the record and statements of the issues shall expressly identify the specific items, document by document, to be included in the record on appeal and specific issues to be presented. Moreover, general, catch-all designations of the items to be included in the record on appeal such as “all bankruptcy files,” “the entire case and/or proceeding record” or similar phrase and general, vague, non-specific statements of the issues are not acceptable and shall result in the record on appeal being considered incomplete. Only that part of the record necessary for the appeal should be designated.

(b) All parties to the appeal shall strictly comply with the foregoing so as to enable the Clerk to promptly assemble and transmit the complete record on appeal for an effective and efficient review by the District Court. Failure of any party to comply with the foregoing shall be ground for such action as the Bankruptcy Court or District Court deems appropriate, which may include ultimate dismissal of the appeal and/or cross appeal by the District Court.

6th Cir. BAP R. 8001–3. Election for District Court Determination of Appeal

(a) **Written Statement of Election Required.** In districts that have authorized appeals to the BAP, every appeal filed in the bankruptcy court shall be heard by the Bankruptcy Appellate Panel of the Sixth Circuit unless—

(1) at the time of filing the appeal or cross-appeal, the appellant or cross-appellant files with the clerk of the bankruptcy court a separate written statement of election to have the appeal heard by the district court; or

(2) within thirty days after service of notice of the appeal, any other party to the appeal files with the panel clerk a separate written statement of election to have the appeal heard by the district court. The filing by any other party to the appeal of any paper (other than a notice of appearance) with the BAP waives the time remaining in the thirty-day period for that party to elect to have the appeal heard by the district court.

(b) **Upon Motion for Leave to Appeal.** In districts that have authorized appeals to the BAP, every appeal upon motion for leave to appeal under Rule 8003 shall be heard by the Bankruptcy Appellate Panel of the Sixth Circuit unless—

(1) at the time of filing the motion for leave to appeal, the moving party files with the clerk of the bankruptcy court a separate written statement of election to have the appeal heard by the district court; or

(2) within thirty days after service of the motion for leave to appeal, any party adverse to the motion for leave to appeal files with the clerk of the bankruptcy court a separate written statement of election to have the appeal heard by the district court. The filing by any party adverse to the motion for leave to appeal of any paper (other than a notice of appearance) with the BAP or the filing of a response to the motion for leave to appeal with the bankruptcy court, waives the time remaining in the thirty-day period for that party to elect to have the appeal heard by the district court.