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Judge Hagan's
Chambers

U.S. DISTRICT COURT
U.S. BANKRUPTCY COURT
DISTRICT OF IDAHO

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

IN RE)	
)	
ORDER REFERRING BANKRUPTCY)	THIRD AMENDED GENERAL
CASES AND PROCEEDINGS TO)	ORDER NO. 38
BANKRUPTCY JUDGES, AUTHORIZING)	
JURY TRIALS, AND AUTHORIZING)	
BANKRUPTCY APPEALS TO BE)	
DECIDED BY THE NINTH CIRCUIT)	
BANKRUPTCY APPELLATE PANEL.)	

PART I: REFERRAL OF BANKRUPTCY CASES AND PROCEEDINGS

The provisions of General Order No. 38, originally entered September 17, 1984, and as thereafter amended shall remain in full force and effect except as specifically amended herein:

1.01 Cases and Proceedings under Title 11, United States Code.

This Court hereby refers to the Bankruptcy Judges of this District all cases under Title 11 and all proceedings arising under Title 11 or arising in or related to cases under Title 11.

1.02 Cases and Proceedings under the Bankruptcy Act of 1898.

The Bankruptcy Judges of this District shall hear and determine cases and proceedings arising under the Bankruptcy Act of 1898, as amended pursuant to Section 403(a) of the Bankruptcy Reform Act of 1978.

1.03 Jury Trials

If the right to a jury trial applies in a proceeding that may be heard under 28 U.S.C. § 157 by a Bankruptcy Judge, the Bankruptcy Judges of this District may conduct the jury trial with the express consent of all the parties.

PART II: BANKRUPTCY APPEALS

2.01 Authorization of Bankruptcy Appellate Panel (BAP) to Hear and Determine Appeals.

(a) Jurisdiction. Pursuant to 28 U.S.C. § 158(b)(2) this Court hereby authorizes a Bankruptcy Appellate Panel to hear and determine appeals from judgments, orders, and decrees entered by Bankruptcy Judges from this District, subject to the limitations set forth in subparagraphs (b) - (c).

(b) The Bankruptcy Appellate Panel may hear and determine only those appeals in which all parties to the appeal consent thereto pursuant to paragraph 2.02 of this order.

(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 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 by the appellant (1) with the notice of appeal or motion for leave to appeal or (2) by any other party with the bankruptcy court clerk

within thirty (30) days from the date of service of notice of the appeal. 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 extension of time period relating to appellate procedures, up to, 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 appellant's brief, appellee's brief, and reply briefs for consideration by the District Court shall be forty (40) 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.

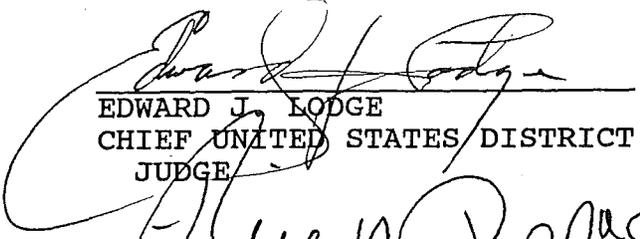
The bankruptcy court clerk shall immediately forward all appeal documents to the BAP either upon termination of the objection period set forth in 2.02 or upon the filing of a motion requiring BAP determination, whichever is earlier.

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 34th day of April, 1995.


EDWARD J. LODGE
CHIEF UNITED STATES DISTRICT
JUDGE


JEM D. PAPPAS
CHIEF UNITED STATES BANKRUPTCY
JUDGE

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