

General Order 38
09/17/1984

All cases under Title 11 or proceedings related to cases under Title 11, as well as cases and proceedings arising under the Bankruptcy Act of 1898, as amended by the Bankruptcy Reform Act of 1978, are referred to bankruptcy judges. The Bankruptcy Appellate Panel (B.A.P.) is authorized to hear only those appeals to which all parties consent. Consent is deemed to have been given unless a written objection is filed with the notice of appeal or motion for leave to appeal, or by any party within 21 days from the date of the filing of such notice or motion. Upon receipt of a timely objection, jurisdiction shall be immediately transferred to the district court.

Practice in bankruptcy appeals which come before the district court shall be governed by Part VIII of the Federal Bankruptcy Rules of Procedure, except as provided in this order or rules adopted subsequently. All documents required by district or bankruptcy court local rules or orders, up to and including briefs, are to be filed with the bankruptcy court. Unless reference of the case underlying the appeal has been withdrawn, all motions for extensions of time relating to appellate procedures shall be filed with the bankruptcy court and determined by a bankruptcy judge. The designation of record shall be the documents contained in an "Excerpt of Record" to be filed with the briefs. The excerpt of record is to be bound separately and contain true copies of all documents each party is relying upon, unless another party has previously filed copies of the identical documents. Each excerpt is to begin with a table of contents.

The time for filing appellant's brief, appellee's brief, and reply briefs shall be 40 days, 30 days, and 14 days, respectively.

As to service of documents, if the appellant files a written objection to B.A.P. determination, the appellant must simultaneously serve a copy of the objection, a copy of the notice or motion and a copy of the judgment, order or decree being appealed on all parties to the appeal. A certificate of service is to be attached to the original notice of or motion for leave to appeal.

If a written objection to B.A.P. determination is not filed with the notice of appeal or motion for leave to appeal, the party filing such notice shall file the following with the Bankruptcy Court Clerk for service to each party to the appeal: 1) a copy of the original notice of 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; 4) stamped, addressed envelopes. Additionally, the Clerk shall serve a copy of current General Order 38 on each party to the appeal.

All documents related to the appeal shall be filed with the bankruptcy court during the objection period, even if a motion requiring B.A.P. determination is filed before the termination of the objection period. The B.A.P. may not dismiss or render final disposition within 21 days from the date the notice of appeal was filed. The Clerk is directed to forward all appeal documents to the B.A.P. upon termination of the objection period or upon the filing of a motion requiring B.A.P. determination, whichever is earlier. (Amended January 15, 1987, and October 23, 1991.)

