

IV. BANKRUPTCY PROCEEDINGS

RULE 401. RULES IN BANKRUPTCY COURT PROCEEDINGS

Proceedings in the Bankruptcy Court shall be governed by Local Bankruptcy Rules as adopted from time to time by order of the Court.

RULE 402. REFERRAL OF BANKRUPTCY CASES AND PROCEEDINGS

Pursuant to 28 U.S.C. § 157(a), all cases under Title 11 of the United States Code and proceedings arising under Title 11 or arising in or related to cases under Title 11 shall be deemed to be referred to the bankruptcy judges of this District.

RULE 403. DEFINITION OF TRANSMITTAL

As used in this chapter, transmittal of a document includes the forwarding of a paper document or copy, or providing access to an electronic document in accordance with the procedures adopted by the Court.

RULE 404. APPEALS TO THE DISTRICT COURT

1. Manner of Appeal

a) Generally

Appeals to the District Court from the Bankruptcy Court shall be taken in the manner prescribed in Part VIII of the Bankruptcy Rules, Rules 8001 et seq.

b) Bankruptcy Court Opinion and Order

Appellant shall provide with the opening brief a copy of the Bankruptcy Court opinion and order from which the appeal is being taken.

2. Dismissal for Non-Compliance with Bankruptcy Rule ~~8006~~[8009]

Whenever the appellant fails to designate the contents of the record on appeal or to file a statement of the issues to be presented on appeal within the time required by Bankruptcy Rule ~~8006~~[8009], the Bankruptcy Clerk shall transmit forthwith to the Clerk of the District Court a partial record consisting of a copy of the order or judgment appealed from, the notice of appeal, a copy of the docket entries and such other documents as the Bankruptcy Clerk deems relevant to the appeal. (The District Court may, thereafter, order the Bankruptcy Clerk to transmit any other relevant documents to the Clerk of the District Court.) When the partial record has been filed in the District Court, the Court may, upon motion of the appellee (which is to be filed in the District Court) or upon its own initiative, dismiss the appeal for non-compliance with Bankruptcy Rule ~~8006~~[8009] after giving the

appellant an opportunity to explain the non-compliance and upon considering whether the non-compliance had prejudicial effect on the other parties.

3. Dismissal for Non-Compliance with Bankruptcy Rule ~~8009~~[8018]

Whenever the appellant fails to serve and file a brief within the time required by Bankruptcy Rule ~~8009~~[8018], the District Court may, upon motion of the appellee (to be filed in the District Court) or upon its own initiative, dismiss the appeal after giving the appellant an opportunity to explain the non-compliance and upon considering whether the non-compliance had prejudicial effect on the other parties.

4. Procedure Regarding Motion to Stay Pending Appeal

After seeking appropriate relief under Bankruptcy Rule ~~8005~~[8007], an appellant seeking a stay pending appeal by the District Court of an order entered by the Bankruptcy Court shall file with the Clerk of the District Court a motion to stay and copies of all documents in the record of the Bankruptcy Court relevant to the appeal. Upon the filing of these documents, the Clerk of the District Court shall immediately open a civil file and the District Court shall give immediate consideration to the motion to stay. If the underlying appeal is ultimately perfected, it will be assigned the same civil action number as was assigned to the motion to stay.

5. Bankruptcy Court Certification Regarding Interlocutory Appeal

Whenever there has been filed in the District Court an application for leave to appeal an interlocutory order of the Bankruptcy Court, the Bankruptcy Court shall, upon request of the District Court, submit to the District Court a written certification stating whether, in its opinion, the interlocutory order involves a controlling question of law as to which there is substantial ground for difference of opinion and whether an immediate appeal of it may materially advance the ultimate termination of the case. The District Court shall, thereafter, determine whether to grant or deny the application for leave to appeal.

RULE 405. RULES OF PROCEDURE FOR WITHDRAWAL OF REFERENCE

1. General Rule

When a case or proceeding has been referred by this Court to the Bankruptcy Court, all documents and pleadings in or related to such case or proceeding shall be filed with the Clerk in the Bankruptcy Court.

IV. BANKRUPTCY PROCEEDINGS

RULE 401. RULES IN BANKRUPTCY COURT PROCEEDINGS

Proceedings in the Bankruptcy Court shall be governed by Local Bankruptcy Rules as adopted from time to time by order of the Court.

RULE 402. REFERRAL OF BANKRUPTCY CASES AND PROCEEDINGS

Pursuant to 28 U.S.C. § 157(a), all cases under Title 11 of the United States Code and proceedings arising under Title 11 or arising in or related to cases under Title 11 shall be deemed to be referred to the bankruptcy judges of this District.

RULE 403. DEFINITION OF TRANSMITTAL

As used in this chapter, transmittal of a document includes the forwarding of a paper document or copy, or providing access to an electronic document in accordance with the procedures adopted by the Court.

RULE 404. APPEALS TO THE DISTRICT COURT

1. Manner of Appeal

a) Generally

Appeals to the District Court from the Bankruptcy Court shall be taken in the manner prescribed in Part VIII of the Bankruptcy Rules, Rules 8001 et seq.

b) Bankruptcy Court Opinion and Order

Appellant shall provide with the opening brief a copy of the Bankruptcy Court opinion and order from which the appeal is being taken.

2. Dismissal for Non-Compliance with Bankruptcy Rule 8009

Whenever the appellant fails to designate the contents of the record on appeal or to file a statement of the issues to be presented on appeal within the time required by Bankruptcy Rule 8009, the Bankruptcy Clerk shall transmit forthwith to the Clerk of the District Court a partial record consisting of a copy of the order or judgment appealed from, the notice of appeal, a copy of the docket entries and such other documents as the Bankruptcy Clerk deems relevant to the appeal. (The District Court may, thereafter, order the Bankruptcy Clerk to transmit any other relevant documents to the Clerk of the District Court.) When the partial record has been filed in the District Court, the Court may, upon motion of the appellee (which is to be filed in the District Court) or upon its own initiative, dismiss the appeal for non-compliance with Bankruptcy Rule 8009 after giving the appellant an

opportunity to explain the non-compliance and upon considering whether the non-compliance had prejudicial effect on the other parties.

3. Dismissal for Non-Compliance with Bankruptcy Rule 8018

Whenever the appellant fails to serve and file a brief within the time required by Bankruptcy Rule 8018, the District Court may, upon motion of the appellee (to be filed in the District Court) or upon its own initiative, dismiss the appeal after giving the appellant an opportunity to explain the non-compliance and upon considering whether the non-compliance had prejudicial effect on the other parties.

4. Procedure Regarding Motion to Stay Pending Appeal

After seeking appropriate relief under Bankruptcy Rule 8007, an appellant seeking a stay pending appeal by the District Court of an order entered by the Bankruptcy Court shall file with the Clerk of the District Court a motion to stay and copies of all documents in the record of the Bankruptcy Court relevant to the appeal. Upon the filing of these documents, the Clerk of the District Court shall immediately open a civil file and the District Court shall give immediate consideration to the motion to stay. If the underlying appeal is ultimately perfected, it will be assigned the same civil action number as was assigned to the motion to stay.

5. Bankruptcy Court Certification Regarding Interlocutory Appeal

Whenever there has been filed in the District Court an application for leave to appeal an interlocutory order of the Bankruptcy Court, the Bankruptcy Court shall, upon request of the District Court, submit to the District Court a written certification stating whether, in its opinion, the interlocutory order involves a controlling question of law as to which there is substantial ground for difference of opinion and whether an immediate appeal of it may materially advance the ultimate termination of the case. The District Court shall, thereafter, determine whether to grant or deny the application for leave to appeal.

RULE 405. RULES OF PROCEDURE FOR WITHDRAWAL OF REFERENCE

1. General Rule

When a case or proceeding has been referred by this Court to the Bankruptcy Court, all documents and pleadings in or related to such case or proceeding shall be filed with the Clerk in the Bankruptcy Court.