

LOCAL RULES
OF THE
UNITED STATES BANKRUPTCY APPELLATE PANEL
FOR THE EIGHTH CIRCUIT

Revised July, 2010

TABLE OF CONTENTS

RULE	PAGE
8001A. District Court Election; Applicable Rules; Dismissal . . .	1
a) District Court Election	1
b) Applicable Rules	1
c) Dismissal	2
8007A. Completion of the Transcript & Transmission of Record . . .	3
a) Transmission of the Preliminary Record	3
b) Supplemental Record	3
c) Transmission of the Record	3
d) Docketing the Appeal	3
e) Duty of the Court Reporter to Prepare & File the Transcript	3
f) Duty of the Bankruptcy Court Clerk to Transmit the Transcript	3
8008A. Electronic Filing and Noticing	4
a) Electronic Filing	4
b) Electronic Noticing	4
8009A. Appendix Not Required	5
8010A. Briefs	6
a) Briefs	6
b) Form of Briefs	6
c) Length of Briefs	6
d) Service of Briefs	7
8011A. Motions	8
a) Orders the Clerk May Grant	8
b) Motions to Dismiss	8
c) Motion for Extension of Time for Filing Brief	8
d) Emergency Motions	9
e) Reconsideration of Orders	10
8014A. Costs	11
a) Taxation of Reproduction Costs	11
b) Allowed Costs	11
c) Time for Filing	11
d) Support for Bill of Costs	11

RULE	PAGE
8015A. Motion for Rehearing	12
a) Time for Filing	12
b) Responses	12
c) Court Action if Granted	12
d) Form of Motion and Length	12
e) Extensions of Time	12
8016A. Duties of the Clerk of the Bankruptcy Appellate Panel .	13
a) Clerk of the Bankruptcy Appellate Panel	13
b) Issuance of Mandates	13
c) Stay of the Mandate	13
8018A. Admitting and Disciplining Attorneys	14
a) Admission	14
b) Discipline	14
Appendix of Forms	15

LOCAL RULE 8001A. ELECTION TO HAVE APPEAL HEARD BY THE DISTRICT COURT; APPLICABLE RULES; DISMISSAL

(a) Election to Have Appeal Heard by the District Court.

Appellant's separate election to have the appeal heard by the district court shall be filed with the clerk of the bankruptcy court. Any other party's election shall be filed with the clerk of the bankruptcy appellate panel. The filing of any paper by an appellee with the bankruptcy appellate panel, except a Notice of Appearance, waives the time remaining in the thirty-day period to elect to have the appeal heard in district court. Until a timely election to have the appeal heard by the district court is filed, all motions and other papers shall be filed with the clerk.

(1) Timeliness of Election; Clerk's Duties. The election to have the appeal heard by the district court shall substantially follow the form established by Appendix A. If any party makes a timely election to have the appeal heard by the district court, the clerk shall enter an order transmitting the appeal back to the clerk of the bankruptcy court, who shall process the appeal in accordance with Part VIII of the Federal Rules of Bankruptcy Procedure.

(2) Determination of Timeliness of Election. If any party questions the timeliness of the election, the clerk shall refer the question to a panel.

(3) Cross Appeals. If a party makes a timely election to go to the district court on an appeal, then cross-appeals shall also go to the district court. Likewise, if neither party makes an election to go to the district court on an appeal, they may not elect to go to the district court on a cross-appeal.

(b) Applicable Rules. These Rules are promulgated under the authority of Fed.R.Bankr.P. 8018 and the Judicial Council of the Eighth Circuit's resolution dated April 10, 1996, entitled "Order of the Judicial Council Establishing a Bankruptcy Appellate Panel."

(1) Citation. These Rules will be known as the Local Rules of the United States Bankruptcy Appellate Panel for the Eighth Circuit and cited as: L.R. BAP 8th Cir.

(2) Effective Date. These Rules are effective January 1, 1997, as amended July 20, 2010.

(3) Federal Rules of Bankruptcy Procedure 8001 et seq. Part VIII of the Federal Rules of Bankruptcy Procedure and Official Forms (Rule 8001) et seq. apply to proceedings in this court unless suspended as allowed by Fed.R.Bankr.P. 8019.

(4) Other Applicable Rules. When Part VIII of the Federal Rules of Bankruptcy Procedure and these Rules are silent as to a particular matter of practice, the court may order application of the Federal Rules of Appellate Procedure or the Local Rules of the United States Court of Appeals for the Eighth Circuit.

(c) Dismissal. If an appellant fails to comply with Part VIII of the Federal Rules of Bankruptcy Procedure or these Rules, the clerk shall notify the appellant that the appeal will be dismissed for want of prosecution unless appellant remedies the default within fourteen (14) days after the clerk issues the notice. If an appellant fails to remedy the default within the fourteen (14) day period, the clerk shall enter an order dismissing the appeal for want of prosecution and shall issue the mandate to the clerk of the bankruptcy court from which the appeal originated. After the appeal has been dismissed under this Rule, there is no remedy for default except by order of the court. The dismissal of an appeal shall not limit the court's authority to take disciplinary action against defaulting parties or counsel in appropriate cases.

**LOCAL RULE 8007A. COMPLETION OF THE TRANSCRIPT AND
TRANSMISSION OF RECORD**

(a) Transmission of the Preliminary Record. Unless the appellant has filed an election to have the appeal heard by the district court, promptly upon the filing of a notice of appeal, the clerk of the bankruptcy court shall transmit to the clerk of the bankruptcy appellate panel a notice that an appeal has been taken.

(b) Supplemental Record. The clerk of the bankruptcy court shall supplement this preliminary record by transmitting to the clerk of the bankruptcy appellate panel notice of any subsequently filed appeal-related motions and orders.

(c) Transmission of the Record. Transmission of the preliminary record and any supplemental record to the clerk of the bankruptcy appellate panel constitutes transmission of the record on appeal for the purposes of Fed.R.Bankr.P. 8007(b).

(d) Docketing the Appeal. The clerk of the bankruptcy appellate panel shall docket the appeal and establish a schedule for the completion of the transcript and the filing of briefs. For the purpose of determining where to file a certification under Local Rule 8001B, and for no other purpose, the appeal is deemed to be docketed 30 days after the date the notice of appeal was filed. The clerk shall notify all parties to the appeal and the clerk of the bankruptcy court that the matter has been docketed and a briefing schedule established. At the time of the docketing the clerk shall assign the case a unique, permanent bankruptcy appellate panel case number.

(e) Duty of the court reporter to prepare and file the transcript. The acknowledgment of a transcript request prepared by the reporter, electronic court recording operator or transcribing service shall be sent to both the clerk of the bankruptcy court and the clerk of the bankruptcy appellate panel.

(f) Duty of the bankruptcy court clerk to transmit the transcript. Upon the filing of the transcript, the clerk of the bankruptcy court shall transmit an electronic copy of the transcript to the clerk of the bankruptcy appellate panel, who shall file it under seal.

LOCAL RULE 8008A. ELECTRONIC FILING AND NOTICING

(a) Electronic Filing. All documents shall be filed electronically. The electronic image of the document will constitute the original document for all court purposes. Filing is complete when the document is received in the clerk's database.

To each document filed electronically, the filer must add a certificate verifying that the original was signed by the attorney or party shown as the filer. The original signed document must be maintained by the filer for a period not less than the maximum allowable time to complete the appellate process. Upon request, the original document must be provided to other parties or to the court.

The clerk may allow a clerk of the bankruptcy court to transmit the notice of appeal and other required docketing documents electronically. Receipt of these documents is complete for filing purposes when they are received in the clerk's database.

(b) Electronic Noticing. Counsel who agree to accept electronic notice must agree that the electronic notice will be the only notice provided by the clerk.

LOCAL RULE 8009A. APPENDIX NOT REQUIRED

Parties shall not file an appendix in paper form. Parties may comply with the requirement to file an appendix as set forth in Fed.R.Bankr.P. 8009(b) by filing a list of relevant bankruptcy court docket entry numbers in lieu of copies of the pleadings. This list may be filed as a separate document or may be attached to a party's initial brief.

Rule 8010A. BRIEFS

(a) Briefs. All briefs shall identify all citations to the record by either (1) a hyperlink to the docket entry, page, and line or (2) the docket number, page, and line.

(b) Form of Briefs. In addition to the requirements of Fed.R.Bankr.P. 8010(a), the brief shall include:

(1) Certification of Interested Parties. A certification of interested parties shall include a list of persons, associations of persons, firms, partnerships and corporations which may have an interest in the outcome of the case in substantially the following form:

NUMBER AND TITLE OF THE APPEAL

Certification Required By L.R.BAP 8th Cir. 8010A(b)(1):

The undersigned, counsel of record for _____ certifies that the following listed party (or parties) has (have) an interest in the outcome of this appeal. These representations are made to enable the judges of the panel to evaluate possible disqualification or recusal.

(Here list the names of all such parties and identify their connection and interest with the appeal.)

(Signature)

(2) Certification of Related Cases. A Certification of Related Cases which shall include a statement of all known related cases before a United States Court of Appeals, a United States District Court, a United States Bankruptcy Court, or a United States Bankruptcy Appellate Panel. A related case is one which involves substantially the same litigants, or one which involves substantially the same factual pattern or legal issue.

(c) Length of Briefs. Principal briefs shall not exceed 6500 words and reply briefs shall not exceed 3900, exclusive of pages containing the table of contents, tables of citations, statement of the basis of appellate jurisdiction, statement of the issues and standard of review. The filing party must include in the brief a certificate stating the number of words contained in the body of the brief.

(d) Service of Briefs. Service shall be made by cm/ecf upon filing of the brief. However, one paper copy of the brief shall be served on any party who is not a cm/ecf participant; such briefs shall be accompanied by a certificate stating the date and method of service, as well as the address to which the brief was served.

LOCAL RULE 8011A. MOTIONS

(a) Orders the Clerk May Grant. The clerk has discretion to enter orders on behalf of the court in procedural matters, including, but not limited to:

- (1) applications for leave to file over length briefs;
- (2) extensions of time to file briefs, transcripts and appendices;
- (3) corrections to briefs, pleadings, or the record;
- (4) supplementation of the record on appeal;
- (5) incorporation of the record from prior appeals;
- (6) consolidation of appeals;
- (7) substitution of parties;
- (8) motions to appear as amicus curiae;
- (9) requests by amicus curiae counsel to participate in oral argument by sharing time with other counsel;
- (10) advancement or continuance of cases;
- (11) withdrawal of counsel;
- (12) extensions of time to file motions for rehearing, bills of costs and motions for attorneys' fees;
- (13) taxation of costs.

If any party seeks reconsideration of an order entered under this section, the clerk shall submit the matter for ruling by a three-judge panel.

(b) Motions to Dismiss. A party may move to dismiss an appeal for failure to comply with the Federal Rules of Bankruptcy Procedure or these Local Rules or any other Rule made applicable to the appeal.

(c) Motion for Extension of Time for Filing Brief. A motion for extension of time for filing a brief shall:

- (1) be made within the time limit established by the court's briefing schedule for the filing of such brief and shall be accompanied by proof of service on any party not a cm/ecf participant;

(2) be supported by a declaration stating the time when the brief is due; how many extensions of time, if any, have been granted and when the brief was first due; and whether any previous requests for extensions of time have been denied or denied in part;

(3) briefly recite the reasons why such an extension is necessary and the amount of time requested. Any motion for an extension of time to file a brief on the ground that the transcript is unavailable must affirmatively show that the transcript was timely ordered and paid for or must state why the transcript was not so ordered.

Pursuant to L.R. BAP 8th Cir. 8011A(a)(2), the clerk is authorized to rule on all motions for extension of time to file a brief. Motions for extension of time will be processed promptly and without awaiting responses from opposing counsel. Any objection received after an order has been entered on the motion may be treated as a request for reconsideration.

(d) Emergency Motions. If a movant certifies that to avoid immediate irreparable harm, relief is needed on an emergency basis, the motion shall be governed by Fed.R.Bankr.P. 8011(d) and the following requirements:

(1) Any motion under this Rule shall have a cover page bearing the legend "Emergency Motion" and the caption of the case.

(2) A certificate of counsel for the movant shall follow the cover page and shall contain:

- (A) Facts showing the existence and nature of the claimed emergency;
- (B) The telephone numbers and office addresses of moving and opposing counsel and parties who are not represented by counsel;
- (C) When and how the other parties were notified and whether they have been served; or if not notified and served, why that was not done;
- (D) If the relief sought in the motion was available in the bankruptcy court, a statement as to whether all grounds advanced in support of the motion brought before the panel were submitted to the bankruptcy court, and, if not, the reasons why.

(3) An appendix to the Emergency Motion shall be served and filed with the motions and shall include the following:

- (A) A copy of the Notice of Appeal (if applicable);
- (B) A copy of the judgment, order, or decree from which the appeal is taken;
- (C) A copy of the bankruptcy court's order denying the movant emergency relief.

(4) Emergency motions and responses shall be filed with the clerk in St. Louis, Missouri. The movant must use every practicable effort to notify and serve opposing counsel, using the quickest method available. The burden is on the movant to provide to the clerk and to opposing counsel copies of all documents relevant to the motion

(e) Reconsideration of Orders. Any party adversely affected by an order entered under the provisions of this Rule may file a motion to reconsider, vacate or modify the order within fourteen (14) days after its entry. The motion shall be referred to a three-judge panel.

LOCAL RULE 8014A. COSTS

(a) Taxation of Reproduction Costs. Unless a party was directed to file a greater number of copies, a party entitled to recover costs may recover the cost of preparing one copy of the brief for each party separately represented, only if such copies were actually prepared. A party entitled to recover costs may recover the cost of preparing three copies of the appendix, plus one copy for each party separately represented, only if such copies were actually prepared.

(b) Allowed Costs. The clerk shall tax reproduction costs, regardless of reproduction method, at the following rates:

Reproduction per page per copy	\$.15
Binding if required per brief, separate addendum or appendix	\$5.00
Cover per brief, separate addendum or appendix	\$2.00
Sales tax (if any)	at the applicable rate

The clerk shall not allow taxation of other costs associated with the preparation of the brief or appendix. Parties cannot recover the costs of overnight or special delivery services.

(c) Time for Filing. The prevailing party must file a bill of costs within fourteen (14) days after entry of judgment. Untimely bills will be denied unless a motion showing good cause is filed with the bill. The losing party must file any objections to the bill of costs within seven (7) days after being served. The clerk may, upon a showing of good cause, grant a party an additional seven (7) days for filing either the bill of costs or the objections.

(d) Support for Bill of Costs. The bill of costs must be itemized. Any receipts must be attached as exhibits to the bill of costs.

LOCAL RULE 8015A. MOTION FOR REHEARING

(a) Time for Filing. Unless the time is shortened or extended by order of the court, a motion for rehearing must be filed within fourteen (14) days after entry of judgment.

(b) Responses. Unless the court requests, no response to a motion for rehearing shall be filed. Ordinarily, a rehearing will not be granted in the absence of such a request for response.

(c) Court Action if Granted. If a motion for rehearing is granted, the court may make a final disposition without re-argument, may restore the case to the calendar for re-argument or re-submission, or may issue any other appropriate order.

(d) Form of Motion and Length. Unless an order granting permission to file an over-length motion for rehearing is granted, the motion is limited to 15 pages. The motion may not incorporate briefs filed in this or another court.

(e) Extensions of Time. Upon a showing of good cause, the clerk may grant a party an additional fourteen (14) days to file either a motion for rehearing or a required response. The motion for the extension of time must be filed within the time allowed for the filing of the motion for rehearing or response. Motions for extension of time filed after the expiration of the time for filing a motion for rehearing or response may be denied as untimely.

**LOCAL RULE 8016A. DUTIES OF THE CLERK OF THE BANKRUPTCY
APPELLATE PANEL**

(a) Clerk of the Bankruptcy Appellate Panel.

(1) Designation of Clerk. The Clerk of the United States Court of Appeals for the Eighth Circuit shall serve as the Clerk of the United States Bankruptcy Appellate Panel for the Eighth Circuit. Unless it is inconsistent with the context, the word clerk in these rules means the Clerk of the United States Bankruptcy Appellate Panel for the Eighth Circuit.

(2) Communications to the Bankruptcy Appellate Panel. All communications to the Bankruptcy Appellate Panel shall be addressed to:

Clerk of the Court
United States Bankruptcy Appellate Panel
for the Eighth Circuit
Thomas F. Eagleton Court House
111 S. Tenth Street, 24th Floor
St. Louis, MO 63102

(b) Issuance of Mandate. The clerk shall issue the mandate of the court seven (7) days after the expiration of the time for filing a motion for rehearing. The mandate is effective when issued.

(c) Stay of Mandate. The court's mandate may be stayed on the following conditions:

(1) On Motion for Rehearing. The timely filing of a motion for rehearing will stay the mandate until disposition of the motion unless otherwise ordered by the court. If the motion is denied, the mandate shall issue seven(7) days after entry of the order denying the motion.

(2) Pending Appeal. A party who files a motion requesting a stay of mandate pending appeal to the United States Court of Appeals for the Eighth Circuit must show that the appeal presents a substantial question and that there is good cause for a stay. The stay cannot exceed thirty (30) days unless the period is extended for cause shown or unless a notice of appeal is filed during the period of the stay, in which case the stay will continue until final disposition by the Court of Appeals. The clerk shall issue the mandate immediately when a copy of an order of the Court of Appeals is entered disposing of the appeal. The court may require a bond or other security as a condition to the grant or continuance of a stay of the mandate.

LOCAL RULE 8018A. ADMITTING AND DISCIPLINING ATTORNEYS

(a) Admission. Any attorney admitted to practice before the Court of Appeals for the Eighth Circuit, and in good standing before that court, may practice before the United States Bankruptcy Appellate Panel for the Eighth Circuit. No separate admission fee shall be required. An attorney who is not admitted may file a written pleading but may not appear to present oral argument.

(b) Discipline. The court may take any appropriate disciplinary action against an attorney who practices before it for conduct unbecoming a member of the bar or for failure to comply with these Rules or any court Rule. Counsel will be afforded reasonable notice, an opportunity to show cause to the contrary, and, if requested, a hearing. The Bankruptcy Appellate Panel may direct the clerk to refer a disciplinary matter to the United States Court of Appeals for the Eighth Circuit.

UNITED STATES BANKRUPTCY APPELLATE PANEL
FOR THE EIGHTH CIRCUIT

In re:)
)
DEBTOR,) Case No.
)
Debtor.) Chapter

APPELLEE'S ELECTION THAT APPEAL BE HEARD BY THE
UNITED STATES DISTRICT COURT

Appellee, _____, hereby elects, pursuant
to 28 U.S.C. § 158 (c) (1) (B) and L.R. BAP 8th Cir. 8001A(a) (1), to
have this appeal heard by the United States District Court for the
_____ District of _____. The notice
of appeal was served on the undersigned on _____.
_____.

Attorney for Appellee
Address
City, State, Zip

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF _____

In re:)
)
DEBTOR,) Case No
)
Debtor.) Chapter

APPELLANT'S ELECTION THAT APPEAL BE HEARD BY THE
UNITED STATES DISTRICT COURT

Appellant, _____, hereby elects,
pursuant to 28 U.S.C. §158(c)(1)(A), to have this appeal heard by the
United States District Court for the _____ District of
_____.

Attorney for Appellant
Address
City, State, Zip