

United States District Court
District of Oregon

DEC 02 15 36 USDC-ORF

In the Matter of Amendments to
Local Rules of Civil Practice -
LR 2200.3(b) Bankruptcy Appeals

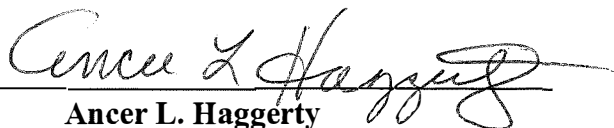
Standing Order No. 02-Misc. Cv. 46

ORDER

Based upon the order entered on October 11, 2002 , the public comment period has expired and all comments have been considered by the court.

It is Ordered that pursuant to 28 U.S.C. §2071(b), LR 2200.3(b) Bankruptcy Appeals has been adopted by the District Court.

Done on behalf of the Court this 2 day of December, 2002.



Ancer L. Haggerty
Chief Judge

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LR 2200 BANKRUPTCY APPEALS

LR 2200.1 Authorization of Bankruptcy Appellate Panel (BAP) to Hear and Determine Appeals

- (a) **Jurisdiction**
Pursuant to 28 U.S.C. § 158(b)(6), this court authorizes a bankruptcy appellate panel (BAP) to hear and determine appeals from judgments, orders, and decrees entered by bankruptcy judges from this district, subject to the limitations set forth in LR 2200.1(b) and (c).
- (b) **Consent Required**
The BAP may hear and determine only those appeals in which all parties to the appeal consent pursuant to LR 2200.2.
- (c) **Scope**
The BAP may hear and determine appeals from final and interlocutory judgments, orders and decrees entered by bankruptcy judges after July 10, 1984, and appeals transferred to this court from the previous Ninth Circuit BAP by § 115(b) in the Bankruptcy Amendments and Federal Judgeship Act of 1984, P.L. 98-353.

LR 2200.2 Form and Time of Consent to Allow Appeal to Be Heard and Determined by Bankruptcy Appellate Panel

- (a) **General**
The consent of a party to allow an appeal to be determined by the BAP shall be deemed to have been given unless written objection thereto in accordance with Fed.R.Bankr.P 8001 is filed either:
 - (1) With the notice of appeal or motion for leave to appeal; or
 - (2) By any party other than the original appellant, with the bankruptcy court clerk within thirty (30) days from the date of filing such notice or motion. 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 a Timely Objection**
Upon timely receipt of a written objection to an appeal being heard and determined by the BAP, jurisdiction over the appeal shall be immediately transferred to the district court, the appeal shall be governed by the provisions of LR 2200.6, 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 the bankruptcy court clerk all appellate documents for administration under LR 2200.6.
- (c) **Objection Filed With Notice or Motion**
If a written objection, filed pursuant to LR 2200.2(a), is filed with the notice of appeal or motion for leave to appeal, the bankruptcy court clerk shall not be required to serve on the parties copies of LR 2200 or the Ninth Circuit Judicial Council's Amended Order Establishing and Continuing the Bankruptcy Appellate Panel of the Ninth Circuit nor forward any appeal documents to the BAP.

LR 2200.3 Service of Required Copies of Documents Upon the Filing of a Notice of Appeal or Motion for Leave to Appeal

(a) If Appellant Files Written Objections to BAP With the Notice of Appeal or Motion for Leave to Appeal

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 Original Appellant Does Not Simultaneously File an Objection to BAP Determination With the Notice or Motion

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;
and
- (3)** A stamped, addressed envelope.

In addition to service of the above documents, the bankruptcy court clerk shall serve a copy of LR 2200 on each party to the appeal.

(c) Dispositive Orders Re Motions for Leave to Appeal

A copy of any order disposing of a motion for leave to appeal shall be immediately transmitted to the bankruptcy court clerk by the clerk of the appellate court which determined the motion.

LR 2200.4 Documents Filed During Objection Period

All documents relating to the appeal shall be filed with the bankruptcy court clerk during the objection period set forth in LR 2200.2 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 thirty (30) days from the date of the filing of the notice of appeal.

LR 2200.5 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 LR 2200.2 or upon the filing of a motion requiring immediate BAP determination, whichever is earlier. A motion for leave to appeal shall not be considered one requiring immediate BAP determination.

Rules Governing Bankruptcy Appeals to Be Determined by the District Court Subsequent to Filing of a Timely Objection to Bap Determination

- (a) **General**
Except as otherwise provided in these rules, practice in bankruptcy appeals which comes before the district court shall be governed by Part VIII of the Rules of Bankruptcy Procedure. The provisions of LR 2200.6 apply only after a party has timely filed a written objection to determination of an appeal by the BAP.
- (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 extensions of time periods relating to appellate procedures, up through and including the time to file briefs, shall be filed with the bankruptcy court clerk and determined by a bankruptcy judge.
- (d) **Simultaneous Notice of Appeal and Motion for Leave to Appeal**
If a notice of appeal and a motion for leave to appeal on the same matter are simultaneously pending, the motion for leave to appeal shall be ruled on first. All time requirements arising at the filing of the notice of appeal, except for the thirty (30) day period provided in LR 2200.2 for objection to BAP determination of the appeal, shall automatically be stayed until the date of entry of the order on the motion for leave to appeal.
- (e) **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. Copies used for the excerpt of record may either be made from the original document in the bankruptcy court file or from a copy of that document which has been retained by the party. Copies need not be certified by the bankruptcy court clerk as a true copy of the original document. The bankruptcy court record shall remain in the office of the bankruptcy clerk.
- (f) **Time for Filing Briefs**
The time for filing the appellant's brief, appellee's brief, and all reply briefs shall be 40 days, 30 days and 14 days respectively, in lieu of the time limits specified in Bankruptcy Rule 8009(a).

Amendment History to LR 2200	
June 1, 2002	
LR 2200	Rules numbers have been restyled to track the current district court local rules numbering format, e.g. LR 2200-1 has been renumbered to LR 2200.1.
LR 2202.2(a)(1)	Reference to Fed.R.Bankr.P 8001 are added to this subsection.
LR 2200.2(a)(2)	The words "other than the original appellant" have been added to this subsection.
LR 2200.4	Amended the twenty-one day notice of appeal time limit to thirty (30) days to reflect current statutory language.
LR 2200.6	Amended the twenty-one day notice of appeal time limit to thirty (30) days to reflect current statutory language.
November 1, 2002	
LR2200.3(b)(3)	Language of subsection (b)(3) requiring submission of Local Form #800 deleted. Subsequent subsection renumbered.

UNITED STATES DISTRICT COURT
District of Oregon

Amendment to LR 2200.3(b) – Bankruptcy Appeals

FILED OCT 16 12 22 PM '02

3:02-misc-46

ORDER

Pursuant to 28 U.S.C. § 2071(e), the following amendment to LR 2200.3(b) has been adopted by the District Court and takes effect on November 1, 2002:

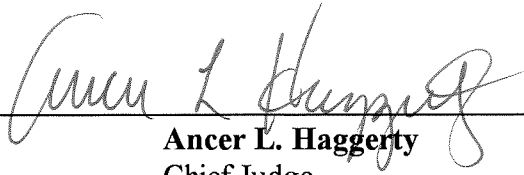
- (b)** If Original Appellant Does Not Simultaneously File an Objection to BAP Determination With the Notice or Motion: If a written objection to BAP determination is not filed at the same time as the notice of appeal or motion for leave to appeal, the party filing such notice or motion shall simultaneously 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; **and**
 - (3)** ~~A copy of the most current version of the bankruptcy court's Local Form #800 (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.

In addition to service of the above documents, the bankruptcy court clerk shall serve a copy of LR 2200 on each party to the appeal.

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Public comment on this rule change should be directed in writing to the Clerk, US District Court, 740 US Courthouse, 1000 SW Third Avenue, Portland, Oregon, and received in that office not later than December 1, 2002. A copy of the amended rule can be downloaded from the Court's web site at www.ord.uscourts.gov.

Done on behalf of the Court this 11 day of October, 2002.



Ancer L. Haggerty
Chief Judge

cc: Circuit Council, United States Court of Appeals for the Ninth Circuit
Gregory Walters, Circuit Executive, Ninth Circuit Court of Appeals
District Judicial Officers
Donald Cinnamond, Clerk of Court