

Rule 6. Appeal in a Bankruptcy Case or Proceeding

(a) Appeal From a Judgment, Order, or Decree of a District Court Exercising Original

Jurisdiction in a Bankruptcy Case or Proceeding. An appeal to a court of appeals from a final judgment, order, or decree of a district court exercising original jurisdiction in a bankruptcy case or proceeding under 28 U.S.C. § 1334 is taken as any other civil appeal under these rules. But the reference in Rule 4(a)(4)(A) to the time allowed for motions under certain Federal Rules of Civil Procedure must be read as a reference to the time allowed for the equivalent motions under the applicable Federal Rules of Bankruptcy Procedure, which may be shorter than the time allowed under the Civil Rules.

(b) Appeal From a Judgment, Order, or Decree of a District Court or Bankruptcy Appellate Panel Exercising Appellate Jurisdiction in a Bankruptcy Case or Proceeding.

(1) Applicability of Other Rules. These rules apply to an appeal to a court of appeals under 28 U.S.C. § 158(d)(1) from a final judgment, order, or decree of a district court or bankruptcy appellate panel exercising appellate jurisdiction in a bankruptcy case or proceeding under 28 U.S.C. § 158(a) or (b), but with these qualifications:

(A) Rules 4(a)(4), 4(b), 9, 10, 11, 12(c), 13-20, 22-23, and 24(b) do not apply;

(B) the reference in Rule 3(c) to "Forms 1A and 1B in the Appendix of Forms" must be read as a reference to Form 5;

(C) when the appeal is from a bankruptcy appellate panel, the term "district court," as used in any applicable rule, means "bankruptcy appellate panel"; and

(D) in Rule 12.1, "district court" includes a bankruptcy court or bankruptcy appellate panel.

(2) Additional Rules. In addition to the rules made applicable by Rule 6(b)(1), the following rules apply:

(A) Motion for rehearing.

- (i) If a timely motion for rehearing under Bankruptcy Rule 8022 is filed, the time to appeal for all parties runs from the entry of the order disposing of the motion. A notice of appeal filed after the district court or bankruptcy appellate panel announces or enters a judgment, order, or decree — but before disposition of the motion for rehearing — becomes effective when the order disposing of the motion for rehearing is entered.
- (ii) If a party intends to challenge the order disposing of the motion — or the alteration or amendment of a judgment, order, or decree upon the motion — then the party, in accordance with Rules 3(c) and 6(b)(1)(B), must file a notice of appeal or amended notice of appeal. The notice or amended notice must be filed within the time

prescribed by Rule 4 — excluding Rules 4(a)(4) and 4(b) — measured from the entry of the order disposing of the motion.

(iii) No additional fee is required to file an amended notice.

(B) The Record on Appeal.

(i) Within 14 days after filing the notice of appeal, the appellant must file with the clerk possessing the record assembled in accordance with Bankruptcy Rule 8009 — and serve on the appellee — a statement of the issues to be presented on appeal and a designation of the record to be certified and made available to the circuit clerk.

(ii) An appellee who believes that other parts of the record are necessary must, within 14 days after being served with the appellant's designation, file with the clerk and serve on the appellant a designation of additional parts to be included.

(iii) The record on appeal consists of:

- the redesignated record as provided above;
- the proceedings in the district court or bankruptcy appellate panel; and
- a certified copy of the docket entries prepared by the clerk under Rule 3(d).

(C) Making the Record Available.

(i) When the record is complete, the district clerk or bankruptcy-appellate-panel clerk must number the documents constituting the record and promptly make it available to the circuit clerk. If the clerk makes the record available in paper form, the clerk will not send documents of unusual bulk or weight, physical exhibits other than documents, or other parts of the record designated for omission by local rule of the court of appeals, unless directed to do so by a party or the circuit clerk. If unusually bulky or heavy exhibits are to be made available in paper form, a party must arrange with the clerks in advance for their transportation and receipt.

(ii) All parties must do whatever else is necessary to enable the clerk to assemble the record and make it available. When the record is made available in paper form, the court of appeals may provide by rule or order that a certified copy of the docket entries be made available in place of the redesignated record. But at any time during the appeal's pendency, any party may request that the redesignated record be made available.

(D) Filing the record. When the district court or bankruptcy-appellate-panel clerk has made the record available, the circuit clerk must note that fact on the docket. The date as noted serves as the filing date of the record. The circuit clerk must immediately notify all parties of that date.

(c) Direct Appeal from a Judgment, Order, or Decree of a Bankruptcy Court by Authorization Under 28 U.S.C. § 158(d)(2).

(1) Applicability of Other Rules. These rules apply to a direct appeal from a judgment, order, or decree of a bankruptcy court by authorization under 28 U.S.C. § 158(d)(2), but with these qualifications:

(A) Rules 3-4, 5 (except as provided in this Rule 6(c)), 6(a), 6(b), 8(a), 8(c), 9-12, 13-20, 22-23, and 24(b) do not apply; and

(B) as used in any applicable rule, “district court” or “district clerk” includes – to the extent appropriate – a bankruptcy court or bankruptcy appellate panel or its clerk.

(2) Additional Rules. In addition to the rules made applicable by Rule 6(c)(1), the following rules apply:

(A) **Petition to Authorize a Direct Appeal.** Within 30 days after a certification of a bankruptcy court’s order for direct appeal to the court of appeals under 28 U.S.C. § 158(d)(2) becomes effective under Bankruptcy Rule 8006(a), any party to the appeal may ask the court of appeals to authorize a direct appeal by filing a petition with the circuit court under Bankruptcy Rule 8006(g).

(B) **Contents of the Petition.** The petition must include the material required by Rule 5(b)(1) and an attached copy of:

(i) the certification; and

(ii) the notice of appeal of the bankruptcy court’s judgment, order, or decree filed under Bankruptcy Rule 8003 or 8004.

(C) **Answer or Cross-Petition; Oral Argument.** Rule 5(b)(2) governs an answer or cross-petition. Rule 5(b)(3) governs oral argument.

(D) **Form of Papers; Number of Copies; Length Limits.** Rule 5(c) governs the required form, number of copies to be filed, and length limits applicable to the petition and any answer or cross-petition.

(E) **Notice of Appeal; Calculating Time.** A notice of appeal to the court of appeals need not be filed. The date when the order authorizing the direct appeal is entered serves as the date of the notice of appeal for calculating time under these rules.

(F) Notification of the Order Authorizing Direct Appeal; Fees; Docketing the appeal.

- (i) When the court of appeals enters the order authorizing the direct appeal, the circuit clerk must notify the bankruptcy clerk and the district court clerk or bankruptcy-appellate-panel clerk of the entry.
- (ii) Within 14 days after the order authorizing the direct appeal is entered, the appellant must pay the bankruptcy clerk any unpaid required fee, including:
 - the fee required for the appeal to the district court or bankruptcy appellate panel; and
 - the difference between the fee for an appeal to the district court or bankruptcy appellate panel and the fee required for an appeal to the court of appeals.
- (iii) The bankruptcy clerk must notify the circuit clerk once the appellant has paid all required fees. Upon receiving the notice, the circuit clerk must enter the direct appeal on the docket.

(G) Stay Pending Appeal. Bankruptcy Rule 8007 governs any stay pending appeal.

(H) The Record on Appeal. Bankruptcy Rule 8009 governs the record on appeal. If a party has already filed a document or completed a step required to assemble the record for the appeal to the district court or bankruptcy appellate panel, the party need not repeat that filing or step.

(I) Making the Record Available. Bankruptcy Rule 8010 governs completing the record and making it available. When the court of appeals enters the order authorizing the direct appeal, the bankruptcy clerk must make the record available to the circuit court.

(J) Duties of the Circuit Clerk. When the bankruptcy clerk has made the record available, the circuit clerk must note that fact on the docket. The date as noted serves as the filing date of the record. The circuit clerk must immediately notify all parties of that date.

(K) Filing a Representative Statement. Unless the court of appeals designates another time, within 14 days after the order authorizing the direct appeal is entered, the attorney for each party to the appeal must file a statement with the circuit clerk naming the parties that the attorney represents on appeal.

Local Rule 6(a). Bankruptcy Records.

The district or bankruptcy court in possession of the record in a bankruptcy appeal in which all parties are represented by counsel shall retain the record until and unless it is requested by the court of appeals.

I.O.P.-6.1. Bankruptcy Appeals.

The Fourth Circuit has not established panels of three bankruptcy judges to hear appeals from bankruptcy courts pursuant to 28 U.S.C. § 158.

Local Rule 6(a) adopted October 1, 2015.