

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GENERAL ORDER No. 24

IN RE: Order Referring Bankruptcy Cases and Proceedings to Bankruptcy Judges and Authorizing Bankruptcy Appeals to be Decided by the Ninth Circuit Bankruptcy Appellate Panel

PART I: REFERRAL OF BANKRUPTCY CASES AND PROCEEDINGS

1.01 CASES AND PROCEEDINGS UNDER TITLE 11, UNITED STATES CODE

(a) This court hereby refers to the bankruptcy judges of this district all cases under title 11, and all proceedings arising under title 11 or arising in or related to cases under title 11.

(b) If a bankruptcy judge or district judge determines that entry of a final order or judgment by a bankruptcy judge would not be consistent with Article III of the United States Constitution in a particular proceeding referred under this order and determined to be a core matter, the bankruptcy judge shall, unless otherwise ordered by the district court, hear the proceeding and submit proposed findings of fact and conclusions of law to the district court made in compliance with Fed. R. Civ. P. 52(a)(1) in the form of findings and conclusions stated on the record or in an opinion or memorandum of decision.

(c) The district court may treat any order of the bankruptcy court as proposed findings of fact and conclusions of law in the event the district court concludes that the bankruptcy judge could not have entered a final order or judgment consistent with Article III of the United States Constitution.

1.02 CASES AND PROCEEDINGS UNDER THE BANKRUPTCY ACT OF 1898

The bankruptcy judges of this district shall hear and determine cases and proceedings arising under the Bankruptcy Act of 1898, as amended, pursuant to sec. 403(a) of the Bankruptcy Reform Act of 1978.

PART II: BANKRUPTCY APPEALS

2.01 BANKRUPTCY APPELLATE PANEL

(a) Pursuant to 28 U.S.C. § 158(b)(6), this court hereby authorizes a bankruptcy appellate panel to hear and determine appeals from judgments, orders, and decrees entered by bankruptcy judges from this district, subject to the limitations set forth in subparagraphs (b)-(d).

(b) The bankruptcy appellate panel may hear and determine only those appeals in which all parties to the appeal consent thereto pursuant to paragraph 2.02 of this order.

(c) The bankruptcy appellate panel may hear and determine appeals from final judgments, orders, and decrees entered by bankruptcy judges and, with leave of the bankruptcy appellate panel, appeals from interlocutory orders and decrees entered by bankruptcy judges.

(d) The bankruptcy appellate panel may hear and determine appeals from judgments, orders, and decrees entered by bankruptcy judges after July 10, 1984, and appeals transferred to this court from the previous Ninth Circuit bankruptcy appellate panel by sec. 115(b) of The Bankruptcy Amendments and Federal Judgeship Act of 1984, P.L. 98-353. The bankruptcy appellate panel may not hear and determine appeals from judgments, orders, and decrees entered by bankruptcy judges between December 25, 1982, and July 10, 1984, under the Emergency Bankruptcy Rule of this district.

2.02 FORM AND TIME OF CONSENT

The consent of a party to allow an appeal to be heard and determined by the bankruptcy appellate panel shall be deemed to have been given unless a party files a written statement of election as provided by Paragraph 3 of the Amended Order Establishing and Continuing the Bankruptcy Appellate Panel of the Ninth Circuit, a copy of which is attached to this order and incorporated herein by reference.

2.03 RULES GOVERNING BANKRUPTCY APPEALS

Practice in such bankruptcy appeals as may come before this district court shall be governed by Part VIII of the Rules of Bankruptcy Procedure, except as provided in this order or in rules subsequently adopted by this district court.

PART III: EFFECTIVE DATE

This order shall become effective immediately and supersede all previous orders of this court regarding bankruptcy cases, proceedings, and appeals provided, however, that all prior actions of the bankruptcy appellate panel not inconsistent herewith are not affected by this order.

ADOPTED: December 27, 1982
AMENDED: March 23, 1983
AMENDED: May 20, 1985
AMENDED: May 15, 2012
AMENDED: February 22, 2016
AMENDED: October 19, 2023

FOR THE COURT:



Richard Seeborg
Chief Judge

**UNITED STATES BANKRUPTCY
APPELLATE PANEL OF
THE NINTH CIRCUIT**

Effective November 18, 1988; as amended May 4, 2010.

**AMENDED ORDER CONTINUING
THE BANKRUPTCY APPELLATE PANEL
OF THE NINTH CIRCUIT**

**JUDICIAL COUNCIL OF THE NINTH CIRCUIT AMENDED ORDER CONTINUING
THE BANKRUPTCY APPELLATE PANEL OF THE NINTH CIRCUIT**

1. Continuing the Bankruptcy Appellate Panel Service.

(a) Pursuant to 28 U.S.C. § 158(b)(1) as amended by the Bankruptcy Reform Act of 1994, the judicial council hereby reaffirms and continues a bankruptcy appellate panel service which shall provide panels to hear and determine appeals from judgments, orders and decrees entered by bankruptcy judges from districts within the Ninth Circuit.

(b) Panels of the bankruptcy appellate panel service may hear and determine appeals originating from districts that have authorized such appeals to be decided by the bankruptcy appellate panel service pursuant to 28 U.S.C. § 158(b)(6).

(c) All appeals originating from those districts shall be referred to bankruptcy appellate panels unless a party elects to have the appeal heard by the district court in the time and manner and form set forth in 28 U.S.C. § 158(c)(1) and in paragraph 3 below.

(d) Bankruptcy appellate panels may hear and determine appeals from final judgments, orders and decrees entered by bankruptcy judges and, with leave of bankruptcy appellate panels, appeals from interlocutory orders and decrees entered by bankruptcy judges.

(e) Bankruptcy appellate panels may hear and determine appeals from final judgments, orders, and decrees entered after the district court from which the appeal originates has issued an order referring bankruptcy cases and proceedings to bankruptcy judges pursuant to 28 U.S.C. § 157(a).

2. Immediate Reference to Bankruptcy Appellate Panels.

Upon filing of the notice of appeal, all appeals are immediately referred to the bankruptcy appellate panel service.

3. Election to District Court - Separate Written Statement Required.

A party desiring to transfer the hearing of an appeal from the bankruptcy appellate panel service to the district court pursuant to 28 U.S.C. § 158(c)(1) shall timely file a separate written statement of election expressly stating that the party elects to have the appeal transferred from the bankruptcy appellate panel service to the district court.

(a) **Appellant:** If the appellant wishes to make such an election, appellant must file a separate written statement of election with the clerk of the bankruptcy court at the time of filing the notice of appeal. Appellant shall submit the same number of copies of the statement of election as copies of the notice of appeal. See Bankruptcy Rule 8001(a). When such an election is made, the clerk of the bankruptcy court shall forthwith transfer the case to the district court. The clerk of the bankruptcy court shall give notice to all parties and the clerk of the bankruptcy appellate panels of the transfer at the same time and in the same manner as set forth for serving notice of the appeal in Bankruptcy Rule 8004.

(b) **All Other Parties:** In all appeals where appellant does not file an election, the clerk of the bankruptcy court shall forthwith transmit a copy of the notice of appeal to the clerk of the bankruptcy appellate panels. If any other party wishes to have the appeal heard by the district court, that party must, within thirty (30) days after service of the notice of appeal, file with the clerk of the bankruptcy appellate panels a written statement of election to transfer the appeal to the district court. Upon receipt of a timely statement of election filed under this section, the clerk of the bankruptcy appellate panels shall forthwith transfer the appeal to the appropriate district court and shall give notice of the transfer to the parties and the clerk of the bankruptcy court. Any question as to the timeliness of an election shall be referred by the clerk of the bankruptcy appellate panels to a bankruptcy appellate panel motions panel for determination.

4. MOTIONS DURING ELECTION PERIOD

All motions relating to an appeal shall be filed with the bankruptcy appellate panel service unless the case has been transferred to a district court. The bankruptcy appellate panels may not dismiss or render a final disposition of an appeal within thirty (30) days from the date of service of the notice of appeal, but may otherwise fully consider and dispose of all motions.

5. PANELS

Each appeal shall be heard and determined by a panel of three judges from among those appointed pursuant to paragraph 6, provided however that a bankruptcy judge shall not participate in an appeal originating in a district for which the judge is appointed or designated under 28 U.S.C. § 152. In addition, the panel may hear and determine appeals en banc under rules promulgated by and approved as provided in section 8 of this order.

6. MEMBERSHIP OF BANKRUPTCY APPELLATE PANELS

The bankruptcy appellate panel shall consist of seven members serving seven-year terms (subject to reappointment to one additional three-year term). The judicial council shall periodically examine the caseload of the bankruptcy appellate panel service to assess whether the number of bankruptcy judges serving should change. Appointment of regular and pro tem bankruptcy judges to service on the bankruptcy appellate panel shall be governed by regulations promulgated by the Judicial Council.

(a) When a three-judge panel cannot be formed from the judges designated under subparagraph (a) to hear a case because judges have recused themselves, are disqualified from hearing the case because it arises from their district, or are otherwise unable to participate, the Chief Judge of the Ninth Circuit may designate one or more other bankruptcy judge(s) from the circuit to hear the case.

(b) In order to provide assistance with the caseload or calendar relief, to constitute an en banc panel, or otherwise to assist the judges serving, or to afford other bankruptcy judges with the opportunity to serve on the bankruptcy appellate panels, the Chief Judge of the Ninth Circuit may designate from time to time one or more other bankruptcy judge(s) from the circuit to participate in one or more panel sittings.

7. CHIEF JUDGE

The members of the bankruptcy appellate panel service by majority vote shall select one of their number to serve as chief judge.

8. RULES OF PROCEDURE

(a) Practice before the bankruptcy appellate panels shall be governed by Part VIII of the Federal Rules of Bankruptcy Procedure, except as provided in this order or by rule of the bankruptcy appellate panel service adopted under subparagraph (b).

(b) The bankruptcy appellate panel service may establish rules governing practice and procedure before bankruptcy appellate panels not inconsistent with the Federal Rules of Bankruptcy Procedure. Such rules shall be submitted to, and approved by, the Judicial Council of the Ninth Circuit.

9. PLACES OF HOLDING COURT.

Bankruptcy appellate panels may conduct hearings at such times and places within the Ninth Circuit as it determines to be appropriate.

10. CLERK AND OTHER EMPLOYEES.

(a) Clerk's Office. The members of the bankruptcy appellate panel service shall select and hire the clerk of the bankruptcy appellate panel. The clerk of the bankruptcy appellate panel may select and hire staff attorneys and other necessary staff. The chief judge shall have appointment authority for the clerk, staff attorneys and other necessary staff. The members of the bankruptcy appellate panel shall determine the location of the principal office of the clerk.

(b) Law Clerks. Each judge on the bankruptcy appellate panel service shall have appointment authority to hire an additional law clerk.

11. EFFECTIVE DATE

This Order shall be effective as to all appeals originating in those bankruptcy cases that are filed after the effective date of this Order. For all appeals originating in those bankruptcy cases that were filed before October 22, 1994, the Judicial Council's prior Amended Order, as revised October 15, 1992, shall apply. This Order, insofar as just and practicable, shall apply to all appeals originating in those bankruptcy cases that were filed after the effective date of the Bankruptcy Reform Act of 1994, October 22, 1994, but before the date of this Order.

IT IS SO ORDERED.

DATE: April 28, 1995; amended May 9, 2002, amended May 4, 2010.