AMENDMENTS TO FEDERAL RULES OF BANKRUPTCY PROCEDURE

The following amendments to the Federal Rules of Bankruptcy Procedure were prescribed by the Supreme Court of the United States on April 25, 2014, pursuant to 28 U. S. C. § 2075, and were reported to Congress by THE CHIEF JUSTICE on the same date. For the letter of transmittal, see *post*, p. 1170. The Judicial Conference report referred to in that letter is not reproduced herein.

Note that under 28 U. S. C. § 2075, such amendments shall take effect no earlier than December 1 of the year in which they are transmitted to Congress unless otherwise provided by law.

For earlier publication of the Federal Rules of Bankruptcy Procedure and amendments thereto, see, *e. g.*, 461 U. S. 973, 471 U. S. 1147, 480 U. S. 1077, 490 U. S. 1119, 500 U. S. 1017, 507 U. S. 1075, 511 U. S. 1169, 514 U. S. 1145, 517 U. S. 1263, 520 U. S. 1285, 526 U. S. 1169, 529 U. S. 1147, 532 U. S. 1077, 535 U. S. 1139, 538 U. S. 1075, 541 U. S. 1097, 544 U. S. 1163, 547 U. S. 1227, 550 U. S. 989, 553 U. S. 1105, 556 U. S. 1307, 559 U. S. 1127, 563 U. S. 1051, 566 U. S. 1045, and 569 U. S. 1141.

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LETTER OF TRANSMITTAL

SUPREME COURT OF THE UNITED STATES
WASHINGTON, D. C.

APRIL 25, 2014

To the Senate and House of Representatives of the United States of America in Congress Assembled:

I have the honor to submit to the Congress the amendments to the Federal Rules of Bankruptcy Procedure that have been adopted by the Supreme Court of the United States pursuant to Section 2075 of Title 28, United States Code.

Accompanying these rules are excerpts from the Report of the Committee on Rules of Practice and Procedure to the Judicial Conference of the United States containing the Committee Notes submitted to the Court for its consideration pursuant to Section 331 of Title 28, United States Code.

Sincerely,

(Signed) JOHN G. ROBERTS, JR.
Chief Justice of the United States

SUPREME COURT OF THE UNITED STATES

APRIL 25, 2014

ORDERED:

1. That the Federal Rules of Bankruptcy Procedure be, and they hereby are, amended by including therein amendments to Bankruptcy Rules 1014, 7004, 7008, 7054, 8001–8028, 9023, and 9024.

[See *infra*, pp. 1173–1215.]

2. That the foregoing amendments to the Federal Rules of Bankruptcy Procedure shall take effect on December 1, 2014, and shall govern in all proceedings in bankruptcy cases thereafter commenced and, insofar as just and practicable, all proceedings then pending.

3. That THE CHIEF JUSTICE be, and hereby is, authorized to transmit to the Congress the foregoing amendments to the Federal Rules of Bankruptcy Procedure in accordance with the provisions of Section 2075 of Title 28, United States Code.

AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

Rule 1014. Dismissal and change of venue.

. . . . .

(*b*) *Procedure when petitions involving the same debtor or related debtors are filed in different courts.*—If petitions commencing cases under the Code or seeking recognition under chapter 15 are filed in different districts by, regarding, or against (1) the same debtor, (2) a partnership and one or more of its general partners, (3) two or more general partners, or (4) a debtor and an affiliate, the court in the district in which the first-filed petition is pending may determine, in the interest of justice or for the convenience of the parties, the district or districts in which any of the cases should proceed. The court may so determine on motion and after a hearing, with notice to the following entities in the affected cases: the United States trustee, entities entitled to notice under Rule 2002(a), and other entities as the court directs. The court may order the parties to the later-filed cases not to proceed further until it makes the determination.

Rule 7004. Process; service of summons, complaint.

. . . . .

(*e*) *Summons: time limit for service within the United States.*—Service made under Rule 4(e), (g), (h)(1), (i), or (j)(2) F. R. Civ. P. shall be by delivery of the summons and complaint within 7 days after the summons is issued. If service is by any authorized form of mail, the summons and complaint shall be deposited in the mail within 7 days after the summons is issued. If a summons is not timely delivered or mailed, another summons will be issued for service. This subdivision does not apply to service in a foreign country.

. . . . .

Rule 7008. General rules of pleading.

Rule 8 F. R. Civ. P. applies in adversary proceedings. The allegation of jurisdiction required by Rule 8(a) shall also contain a reference to the name, number, and chapter of the case under the Code to which the adversary proceeding relates and to the district and division where the case under the Code is pending. In an adversary proceeding before a bankruptcy judge, the complaint, counterclaim, cross-claim, or third-party complaint shall contain a statement that the proceeding is core or non-core and, if non-core, that the pleader does or does not consent to entry of final orders or judgment by the bankruptcy judge.

Rule 7054. Judgments; costs.

(*a*) *Judgments.*—Rule 54(a)–(c) F. R. Civ. P. applies in adversary proceedings.

(*b*) *Costs; attorney's fees.*

(*1*) *Costs other than attorney's fees.*—The court may allow costs to the prevailing party except when a statute of the United States or these rules otherwise provides. Costs against the United States, its officers and agencies shall be imposed only to the extent permitted by law. Costs may be taxed by the clerk on 14 days' notice; on motion served within seven days thereafter, the action of the clerk may be reviewed by the court.

(*2*) *Attorney's fees.*

(A) Rule 54(d)(2)(A)–(C) and (E) F. R. Civ. P. applies in adversary proceedings except for the reference in Rule 54(d)(2)(C) to Rule 78.

(B) By local rule, the court may establish special procedures to resolve fee-related issues without extensive evidentiary hearings.

Rule 8001. Scope of Part VIII Rules; definition of "BAP"; method of transmission.

(*a*) *General scope.*—These Part VIII rules govern the procedure in a United States district court and a bankruptcy appellate panel on appeal from a judgment, order, or decree

of a bankruptcy court. They also govern certain procedures on appeal to a United States court of appeals under 28 U. S. C. § 158(d).

(*b*) *Definition of "BAP."*—"BAP" means a bankruptcy appellate panel established by a circuit's judicial council and authorized to hear appeals from a bankruptcy court under 28 U. S. C. § 158.

(*c*) *Method of transmitting documents.*—A document must be sent electronically under these Part VIII rules, unless it is being sent by or to an individual who is not represented by counsel or the court's governing rules permit or require mailing or other means of delivery.

Rule 8002. Time for filing notice of appeal.

(*a*) *In general.*

(*1*) *Fourteen-day period.*—Except as provided in subdivisions (b) and (c), a notice of appeal must be filed with the bankruptcy clerk within 14 days after entry of the judgment, order, or decree being appealed.

(*2*) *Filing before the entry of judgment.*—A notice of appeal filed after the bankruptcy court announces a decision or order—but before entry of the judgment, order, or decree—is treated as filed on the date of and after the entry.

(*3*) *Multiple appeals.*—If one party files a timely notice of appeal, any other party may file a notice of appeal within 14 days after the date when the first notice was filed, or within the time otherwise allowed by this rule, whichever period ends later.

(*4*) *Mistaken filing in another court.*—If a notice of appeal is mistakenly filed in a district court, BAP, or court of appeals, the clerk of that court must state on the notice the date on which it was received and transmit it to the bankruptcy clerk. The notice of appeal is then considered filed in the bankruptcy court on the date so stated.

(*b*) *Effect of a motion on the time to appeal.*

(*1*) *In general.*—If a party timely files in the bankruptcy court any of the following motions, the time to file an ap-

peal runs for all parties from the entry of the order disposing of the last such remaining motion:

(A) to amend or make additional findings under Rule 7052, whether or not granting the motion would alter the judgment;

(B) to alter or amend the judgment under Rule 9023;

(C) for a new trial under Rule 9023; or

(D) for relief under Rule 9024 if the motion is filed within 14 days after the judgment is entered.

(*2*) *Filing an appeal before the motion is decided.*—If a party files a notice of appeal after the court announces or enters a judgment, order, or decree—but before it disposes of any motion listed in subdivision (b)(1)—the notice becomes effective when the order disposing of the last such remaining motion is entered.

(*3*) *Appealing the ruling on the motion.*—If a party intends to challenge an order disposing of any motion listed in subdivision (b)(1)—or the alteration or amendment of a judgment, order, or decree upon the motion—the party must file a notice of appeal or an amended notice of appeal. The notice or amended notice must comply with Rule 8003 or 8004 and be filed within the time prescribed by this rule, measured from the entry of the order disposing of the last such remaining motion.

(*4*) *No additional fee.*—No additional fee is required to file an amended notice of appeal.

(*c*) *Appeal by an inmate confined in an institution.*

(*1*) *In general.*—If an inmate confined in an institution files a notice of appeal from a judgment, order, or decree of a bankruptcy court, the notice is timely if it is deposited in the institution's internal mail system on or before the last day for filing. If the institution has a system designed for legal mail, the inmate must use that system to receive the benefit of this rule. Timely filing may be shown by a declaration in compliance with 28 U. S. C. § 1746 or by a notarized statement, either of which must

set forth the date of deposit and state that first-class postage has been prepaid.

(*2*) *Multiple appeals.*—If an inmate files under this subdivision the first notice of appeal, the 14-day period provided in subdivision (a)(3) for another party to file a notice of appeal runs from the date when the bankruptcy clerk dockets the first notice.

(*d*) *Extending the time to appeal.*

(*1*) *When the time may be extended.*—Except as provided in subdivision (d)(2), the bankruptcy court may extend the time to file a notice of appeal upon a party's motion that is filed:

(A) within the time prescribed by this rule; or

(B) within 21 days after that time, if the party shows excusable neglect.

(*2*) *When the time may not be extended.*—The bankruptcy court may not extend the time to file a notice of appeal if the judgment, order, or decree appealed from:

(A) grants relief from an automatic stay under § 362, 922, 1201, or 1301 of the Code;

(B) authorizes the sale or lease of property or the use of cash collateral under § 363 of the Code;

(C) authorizes the obtaining of credit under § 364 of the Code;

(D) authorizes the assumption or assignment of an executory contract or unexpired lease under § 365 of the Code;

(E) approves a disclosure statement under § 1125 of the Code; or

(F) confirms a plan under § 943, 1129, 1225, or 1325 of the Code.

(*3*) *Time limits on an extension.*—No extension of time may exceed 21 days after the time prescribed by this rule, or 14 days after the order granting the motion to extend time is entered, whichever is later.

Rule 8003. Appeal as of right—how taken; docketing the appeal.

(*a*) *Filing the notice of appeal.*

(*1*) *In general.*—An appeal from a judgment, order, or decree of a bankruptcy court to a district court or BAP under 28 U. S. C. § 158(a)(1) or (a)(2) may be taken only by filing a notice of appeal with the bankruptcy clerk within the time allowed by Rule 8002.

(*2*) *Effect of not taking other steps.*—An appellant's failure to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is ground only for the district court or BAP to act as it considers appropriate, including dismissing the appeal.

(*3*) *Contents.*—The notice of appeal must:

(A) conform substantially to the appropriate Official Form;

(B) be accompanied by the judgment, order, or decree, or the part of it, being appealed; and

(C) be accompanied by the prescribed fee.

(*4*) *Additional copies.*—If requested to do so, the appellant must furnish the bankruptcy clerk with enough copies of the notice to enable the clerk to comply with subdivision (c).

(*b*) *Joint or consolidated appeals.*

(*1*) *Joint notice of appeal.*—When two or more parties are entitled to appeal from a judgment, order, or decree of a bankruptcy court and their interests make joinder practicable, they may file a joint notice of appeal. They may then proceed on appeal as a single appellant.

(*2*) *Consolidating appeals.*—When parties have separately filed timely notices of appeal, the district court or BAP may join or consolidate the appeals.

(*c*) *Serving the notice of appeal.*

(*1*) *Serving parties and transmitting to the United States trustee.*—The bankruptcy clerk must serve the notice of appeal on counsel of record for each party to the appeal, excluding the appellant, and transmit it to the

United States trustee. If a party is proceeding pro se, the clerk must send the notice of appeal to the party's last known address. The clerk must note, on each copy, the date when the notice of appeal was filed.

(*2*) *Effect of failing to serve or transmit notice.*—The bankruptcy clerk's failure to serve notice on a party or transmit notice to the United States trustee does not affect the validity of the appeal.

(*3*) *Noting service on the docket.*—The clerk must note on the docket the names of the parties served and the date and method of the service.

(*d*) *Transmitting the notice of appeal to the district court or BAP; docketing the appeal.*

(*1*) *Transmitting the notice.*—The bankruptcy clerk must promptly transmit the notice of appeal to the BAP clerk if a BAP has been established for appeals from that district and the appellant has not elected to have the district court hear the appeal. Otherwise, the bankruptcy clerk must promptly transmit the notice to the district clerk.

(*2*) *Docketing in the district court or BAP.*—Upon receiving the notice of appeal, the district or BAP clerk must docket the appeal under the title of the bankruptcy case and the title of any adversary proceeding, and must identify the appellant, adding the appellant's name if necessary.

Rule 8004. Appeal by leave—how taken; docketing the appeal.

(*a*) *Notice of appeal and motion for leave to appeal.*—To appeal from an interlocutory order or decree of a bankruptcy court under 28 U. S. C. § 158(a)(3), a party must file with the bankruptcy clerk a notice of appeal as prescribed by Rule 8003(a). The notice must:

(1) be filed within the time allowed by Rule 8002;

(2) be accompanied by a motion for leave to appeal prepared in accordance with subdivision (b); and

(3) unless served electronically using the court's transmission equipment, include proof of service in accordance with Rule 8011(d).

(*b*) *Contents of the motion; response.*

(*1*) *Contents.*—A motion for leave to appeal under 28 U. S. C. § 158(a)(3) must include the following:

(A) the facts necessary to understand the question presented;

(B) the question itself;

(C) the relief sought;

(D) the reasons why leave to appeal should be granted; and

(E) a copy of the interlocutory order or decree and any related opinion or memorandum.

(*2*) *Response.*—A party may file with the district or BAP clerk a response in opposition or a cross-motion within 14 days after the motion is served.

(*c*) *Transmitting the notice of appeal and the motion; docketing the appeal; determining the motion.*

(*1*) *Transmitting to the district court or BAP.*—The bankruptcy clerk must promptly transmit the notice of appeal and the motion for leave to the BAP clerk if a BAP has been established for appeals from that district and the appellant has not elected to have the district court hear the appeal. Otherwise, the bankruptcy clerk must promptly transmit the notice and motion to the district clerk.

(*2*) *Docketing in the district court or BAP.*—Upon receiving the notice and motion, the district or BAP clerk must docket the appeal under the title of the bankruptcy case and the title of any adversary proceeding, and must identify the appellant, adding the appellant's name if necessary.

(*3*) *Oral argument not required.*—The motion and any response or cross-motion are submitted without oral argument unless the district court or BAP orders otherwise.

(*d*) *Failure to file a motion with a notice of appeal.*—If an appellant timely files a notice of appeal under this rule but does not include a motion for leave, the district court or BAP may order the appellant to file a motion for leave,

or treat the notice of appeal as a motion for leave and either grant or deny it. If the court orders that a motion for leave be filed, the appellant must do so within 14 days after the order is entered, unless the order provides otherwise.

(*e*) *Direct appeal to a court of appeals.*—If leave to appeal an interlocutory order or decree is required under 28 U. S. C. § 158(a)(3), an authorization of a direct appeal by the court of appeals under 28 U. S. C. § 158(d)(2) satisfies the requirement.

Rule 8005. Election to have an appeal heard by the district court instead of the BAP.

(*a*) *Filing of a statement of election.*—To elect to have an appeal heard by the district court, a party must:

(1) file a statement of election that conforms substantially to the appropriate Official Form; and

(2) do so within the time prescribed by 28 U. S. C. § 158(c)(1).

(*b*) *Transmitting the documents related to the appeal.*—Upon receiving an appellant's timely statement of election, the bankruptcy clerk must transmit to the district clerk all documents related to the appeal. Upon receiving a timely statement of election by a party other than the appellant, the BAP clerk must transmit to the district clerk all documents related to the appeal and notify the bankruptcy clerk of the transmission.

(*c*) *Determining the validity of an election.*—A party seeking a determination of the validity of an election must file a motion in the court where the appeal is then pending. The motion must be filed within 14 days after the statement of election is filed.

(*d*) *Motion for leave without a notice of appeal—effect on the timing of an election.*—If an appellant moves for leave to appeal under Rule 8004 but fails to file a separate notice of appeal with the motion, the motion must be treated as a notice of appeal for purposes of determining the timeliness of a statement of election.

Rule 8006. Certifying a direct appeal to the court of appeals.

(*a*) *Effective date of a certification.*—A certification of a judgment, order, or decree of a bankruptcy court for direct review in a court of appeals under 28 U. S. C. § 58(d)(2) is effective when:

(1) the certification has been filed;

(2) a timely appeal has been taken under Rule 8003 or 8004; and

(3) the notice of appeal has become effective under Rule 8002.

(*b*) *Filing the certification.*—The certification must be filed with the clerk of the court where the matter is pending. For purposes of this rule, a matter remains pending in the bankruptcy court for 30 days after the effective date under Rule 8002 of the first notice of appeal from the judgment, order, or decree for which direct review is sought. A matter is pending in the district court or BAP thereafter.

(*c*) *Joint certification by all appellants and appellees.*—A joint certification by all the appellants and appellees under 28 U. S. C. § 158(d)(2)(A) must be made by using the appropriate Official Form. The parties may supplement the certification with a short statement of the basis for the certification, which may include the information listed in subdivision (f)(2).

(*d*) *The court that may make the certification.*—Only the court where the matter is pending, as provided in subdivision (b), may certify a direct review on request of parties or on its own motion.

(*e*) *Certification on the court's own motion.*

(*1*) *How accomplished.*—A certification on the court's own motion must be set forth in a separate document. The clerk of the certifying court must serve it on the parties to the appeal in the manner required for service of a notice of appeal under Rule 8003(c)(1). The certification must be accompanied by an opinion or memorandum

that contains the information required by subdivision (f)(2)(A)–(D).

(*2*) *Supplemental statement by a party.*—Within 14 days after the court's certification, a party may file with the clerk of the certifying court a short supplemental statement regarding the merits of certification.

(*f*) *Certification by the court on request.*

(*1*) *How requested.*—A request by a party for certification that a circumstance specified in 28 U. S. C. § 158(d)(2)(A)(i)–(iii) applies—or a request by a majority of the appellants and a majority of the appellees—must be filed with the clerk of the court where the matter is pending within 60 days after the entry of the judgment, order, or decree.

(*2*) *Service and contents.*—The request must be served on all parties to the appeal in the manner required for service of a notice of appeal under Rule 8003(c)(1), and it must include the following:

(A) the facts necessary to understand the question presented;

(B) the question itself;

(C) the relief sought;

(D) the reasons why the direct appeal should be allowed, including which circumstance specified in 28 U. S. C. § 158(d)(2)(A)(i)–(iii) applies; and

(E) a copy of the judgment, order, or decree and any related opinion or memorandum.

(*3*) *Time to file a response or a cross-request.*—A party may file a response to the request within 14 days after the request is served, or such other time as the court where the matter is pending allows. A party may file a cross-request for certification within 14 days after the request is served, or within 60 days after the entry of the judgment, order, or decree, whichever occurs first.

(*4*) *Oral argument not required.*—The request, cross-request, and any response are submitted without oral

argument unless the court where the matter is pending orders otherwise.

(5) *Form and service of the certification.*—If the court certifies a direct appeal in response to the request, it must do so in a separate document. The certification must be served on the parties to the appeal in the manner required for service of a notice of appeal under Rule 8003(c)(1).

(*g*) *Proceeding in the court of appeals following a certification.*—Within 30 days after the date the certification becomes effective under subdivision (a), a request for permission to take a direct appeal to the court of appeals must be filed with the circuit clerk in accordance with F. R. App. P. 6(c).

Rule 8007. Stay pending appeal; bonds; suspension of proceedings.

(*a*) *Initial motion in the bankruptcy court.*

(*1*) *In general.*—Ordinarily, a party must move first in the bankruptcy court for the following relief:

(A) a stay of a judgment, order, or decree of—the bankruptcy court pending appeal;

(B) the approval of a supersedeas bond;

(C) an order suspending, modifying, restoring, or granting an injunction while an appeal is pending; or

(D) the suspension or continuation of proceedings in a case or other relief permitted by subdivision (e).

(*2*) *Time to file.*—The motion may be made either before or after the notice of appeal is filed.

(*b*) *Motion in the district court, the BAP, or the court of appeals on direct appeal.*

(*1*) *Request for relief.*—A motion for the relief specified in subdivision (a)(1)—or to vacate or modify a bankruptcy court's order granting such relief—may be made in the court where the appeal is pending.

(*2*) *Showing or statement required.*—The motion must:

(A) show that moving first in the bankruptcy court would be impracticable; or

(B) if a motion was made in the bankruptcy court, either state that the court has not yet ruled on the motion, or state that the court has ruled and set out any reasons given for the ruling.

(*3*) *Additional content.*—The motion must also include:

(A) the reasons for granting the relief requested and the facts relied upon;

(B) affidavits or other sworn statements supporting facts subject to dispute; and

(C) relevant parts of the record.

(*4*) *Serving notice.*—The movant must give reasonable notice of the motion to all parties.

(*c*) *Filing a bond or other security.*—The district court, BAP, or court of appeals may condition relief on filing a bond or other appropriate security with the bankruptcy court.

(*d*) *Bond for a trustee or the United States.*—The court may require a trustee to file a bond or other appropriate security when the trustee appeals. A bond or other security is not required when an appeal is taken by the United States, its officer, or its agency or by direction of any department of the federal government.

(*e*) *Continuation of proceedings in the bankruptcy court.*—Despite Rule 7062 and subject to the authority of the district court, BAP, or court of appeals, the bankruptcy court may:

(1) suspend or order the continuation of other proceedings in the case; or

(2) issue any other appropriate orders during the pendency of an appeal to protect the rights of all parties in interest.

Rule 8008. Indicative rulings.

(*a*) *Relief pending appeal.*—If a party files a timely motion in the bankruptcy court for relief that the court lacks authority to grant because of an appeal that has been docketed and is pending, the bankruptcy court may:

(1) defer considering the motion;

(2) deny the motion; or

(3) state that the court would grant the motion if the court where the appeal is pending remands for that purpose, or state that the motion raises a substantial issue.

(*b*) *Notice to the court where the appeal is pending.*—The movant must promptly notify the clerk of the court where the appeal is pending if the bankruptcy court states that it would grant the motion or that the motion raises a substantial issue.

(*c*) *Remand after an indicative ruling.*—If the bankruptcy court states that it would grant the motion or that the motion raises a substantial issue, the district court or BAP may remand for further proceedings, but it retains jurisdiction unless it expressly dismisses the appeal. If the district court or BAP remands but retains jurisdiction, the parties must promptly notify the clerk of that court when the bankruptcy court has decided the motion on remand.

Rule 8009. Record on appeal; sealed documents.

(*a*) *Designating the record on appeal; statement of the issues.*

(*1*) *Appellant.*

(A) The appellant must file with the bankruptcy clerk and serve on the appellee a designation of the items to be included in the record on appeal and a statement of the issues to be presented.

(B) The appellant must file and serve the designation and statement within 14 days after:

(i) the appellant's notice of appeal as of right becomes effective under Rule 8002; or

(ii) an order granting leave to appeal is entered.

A designation and statement served prematurely must be treated as served on the first day on which filing is timely.

(*2*) *Appellee and cross-appellant.*—Within 14 days after being served, the appellee may file with the bankruptcy clerk and serve on the appellant a designation of additional

items to be included in the record. An appellee who files a cross-appeal must file and serve a designation of additional items to be included in the record and a statement of the issues to be presented on the cross-appeal.

(*3*) *Cross-appellee.*—Within 14 days after service of the cross-appellant's designation and statement, a cross-appellee may file with the bankruptcy clerk and serve on the cross-appellant a designation of additional items to be included in the record.

(*4*) *Record on appeal.*—The record on appeal must include the following:

- docket entries kept by the bankruptcy clerk;
- items designated by the parties;
- the notice of appeal;
- the judgment, order, or decree being appealed;
- any order granting leave to appeal;
- any certification required for a direct appeal to the court of appeals;
- any opinion, findings of fact, and conclusions of law relating to the issues on appeal, including transcripts of all oral rulings;
- any transcript ordered under subdivision (b);
- any statement required by subdivision (c); and
- any additional items from the record that the court where the appeal is pending orders.

(*5*) *Copies for the bankruptcy clerk.*—If paper copies are needed, a party filing a designation of items must provide a copy of any of those items that the bankruptcy clerk requests. If the party fails to do so, the bankruptcy clerk must prepare the copy at the party's expense.

(*b*) *Transcript of proceedings.*

(*1*) *Appellant's duty to order.*—Within the time period prescribed by subdivision (a)(1), the appellant must:

(A) order in writing from the reporter, as defined in Rule 8010(a)(1), a transcript of such parts of the proceedings not already on file as the appellant considers necessary for the appeal, and file a copy of the order with the bankruptcy clerk; or

(B) file with the bankruptcy clerk a certificate stating that the appellant is not ordering a transcript.

(*2*) *Cross-appellant's duty to order.*—Within 14 days after the appellant files a copy of the transcript order or a certificate of not ordering a transcript, the appellee as cross-appellant must:

(A) order in writing from the reporter, as defined in Rule 8010(a)(1), a transcript of such additional parts of the proceedings as the cross-appellant considers necessary for the appeal, and file a copy of the order with the bankruptcy clerk; or

(B) file with the bankruptcy clerk a certificate stating that the cross-appellant is not ordering a transcript.

(*3*) *Appellee's or cross-appellee's right to order.*—Within 14 days after the appellant or cross-appellant files a copy of a transcript order or certificate of not ordering a transcript, the appellee or cross-appellee may order in writing from the reporter a transcript of such additional parts of the proceedings as the appellee or cross-appellee considers necessary for the appeal. A copy of the order must be filed with the bankruptcy clerk.

(*4*) *Payment.*—At the time of ordering, a party must make satisfactory arrangements with the reporter for paying the cost of the transcript.

(*5*) *Unsupported finding or conclusion.*—If the appellant intends to argue on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, the appellant must include in the record a transcript of all relevant testimony and copies of all relevant exhibits.

(*c*) *Statement of the evidence when a transcript is unavailable.*—If a transcript of a hearing or trial is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including the appellant's recollection. The statement must be filed within the time prescribed by subdivision (a)(1) and served on the appellee, who may serve objections or proposed amendments within 14 days after being served. The statement and any

objections or proposed amendments must then be submitted to the bankruptcy court for settlement and approval. As settled and approved, the statement must be included by the bankruptcy clerk in the record on appeal.

(*d*) *Agreed statement as the record on appeal.*—Instead of the record on appeal as defined in subdivision (a), the parties may prepare, sign, and submit to the bankruptcy court a statement of the case showing how the issues presented by the appeal arose and were decided in the bankruptcy court. The statement must set forth only those facts alleged and proved or sought to be proved that are essential to the court's resolution of the issues. If the statement is accurate, it—together with any additions that the bankruptcy court may consider necessary to a full presentation of the issues on appeal—must be approved by the bankruptcy court and must then be certified to the court where the appeal is pending as the record on appeal. The bankruptcy clerk must then transmit it to the clerk of that court within the time provided by Rule 8010. A copy of the agreed statement may be filed in place of the appendix required by Rule 8018(b) or, in the case of a direct appeal to the court of appeals, by F. R. App. P. 30.

(*e*) *Correcting or modifying the record.*

(*1*) *Submitting to the bankruptcy court.*—If any difference arises about whether the record accurately discloses what occurred in the bankruptcy court, the difference must be submitted to and settled by the bankruptcy court and the record conformed accordingly. If an item has been improperly designated as part of the record on appeal, a party may move to strike that item.

(*2*) *Correcting in other ways.*—If anything material to either party is omitted from or misstated in the record by error or accident, the omission or misstatement may be corrected, and a supplemental record may be certified and transmitted:

(A) on stipulation of the parties;

(B) by the bankruptcy court before or after the record has been forwarded; or

(C) by the court where the appeal is pending.

(*3*) *Remaining questions.*—All other questions as to the form and content of the record must be presented to the court where the appeal is pending.

(*f*) *Sealed documents.*—A document placed under seal by the bankruptcy court may be designated as part of the record on appeal. In doing so, a party must identify it without revealing confidential or secret information, but the bankruptcy clerk must not transmit it to the clerk of the court where the appeal is pending as part of the record. Instead, a party must file a motion with the court where the appeal is pending to accept the document under seal. If the motion is granted, the movant must notify the bankruptcy court of the ruling, and the bankruptcy clerk must promptly transmit the sealed document to the clerk of the court where the appeal is pending.

(*g*) *Other necessary actions.*—All parties to an appeal must take any other action necessary to enable the bankruptcy clerk to assemble and transmit the record.

Rule 8010. Completing and transmitting the record.

(*a*) *Reporter's duties.*

(*1*) *Proceedings recorded without a reporter present.*—If proceedings were recorded without a reporter being present, the person or service selected under bankruptcy court procedures to transcribe the recording is the reporter for purposes of this rule.

(*2*) *Preparing and filing the transcript.*—The reporter must prepare and file a transcript as follows:

(A) Upon receiving an order for a transcript in accordance with Rule 8009(b), the reporter must file in the bankruptcy court an acknowledgment of the request that shows when it was received, and when the reporter expects to have the transcript completed.

(B) After completing the transcript, the reporter must file it with the bankruptcy clerk, who will notify the district, BAP, or circuit clerk of its filing.

(C) If the transcript cannot be completed within 30 days after receiving the order, the reporter must request an extension of time from the bankruptcy clerk. The clerk must enter on the docket and notify the parties whether the extension is granted.

(D) If the reporter does not file the transcript on time, the bankruptcy clerk must notify the bankruptcy judge.

(*b*) *Clerk's duties.*

(*1*) *Transmitting the record—In general.*—Subject to Rule 8009(f) and subdivision (b)(5) of this rule, when the record is complete, the bankruptcy clerk must transmit to the clerk of the court where the appeal is pending either the record or a notice that the record is available electronically.

(*2*) *Multiple appeals.*—If there are multiple appeals from a judgment, order, or decree, the bankruptcy clerk must transmit a single record.

(*3*) *Receiving the record.*—Upon receiving the record or notice that it is available electronically, the district, BAP, or circuit clerk must enter that information on the docket and promptly notify all parties to the appeal.

(*4*) *If paper copies are ordered.*—If the court where the appeal is pending directs that paper copies of the record be provided, the clerk of that court must so notify the appellant. If the appellant fails to provide them, the bankruptcy clerk must prepare them at the appellant's expense.

(*5*) *When leave to appeal is requested.*—Subject to subdivision (c), if a motion for leave to appeal has been filed under Rule 8004, the bankruptcy clerk must prepare and transmit the record only after the district court, BAP, or court of appeals grants leave.

(*c*) *Record for a preliminary motion in the district court, BAP, or court of appeals.*—This subdivision (c) applies if, before the record is transmitted, a party moves in the district court, BAP, or court of appeals for any of the following relief:

- leave to appeal;
- dismissal;

- a stay pending appeal;
- approval of a supersedeas bond, or additional security on a bond or undertaking on appeal; or
- any other intermediate order.

The bankruptcy clerk must then transmit to the clerk of the court where the relief is sought any parts of the record designated by a party to the appeal or a notice that those parts are available electronically.

Rule 8011. Filing and service; signature.

(*a*) *Filing.*

(*1*) *With the clerk.*—A document required or permitted to be filed in a district court or BAP must be filed with the clerk of that court.

(*2*) *Method and timeliness.*

(*A*) *In general.*—Filing may be accomplished by transmission to the clerk of the district court or BAP. Except as provided in subdivision (a)(2)(B) and (C), filing is timely only if the clerk receives the document within the time fixed for filing.

(*B*) *Brief or appendix.*—A brief or appendix is also timely filed if, on or before the last day for filing, it is:

(i) mailed to the clerk by first-class mail—or other class of mail that is at least as expeditious—postage prepaid, if the district court's or BAP's procedures permit or require a brief or appendix to be filed by mailing; or

(ii) dispatched to a third-party commercial carrier for delivery within 3 days to the clerk, if the court's procedures so permit or require.

(*C*) *Inmate filing.*—A document filed by an inmate confined in an institution is timely if deposited in the institution's internal mailing system on or before the last day for filing. If the institution has a system designed for legal mail, the inmate must use that system to receive the benefit of this rule. Timely filing may be shown by a declaration in compliance with 28 U. S. C. § 1746 or by a notarized statement, either of which must

set forth the date of deposit and state that first-class postage has been prepaid.

(*D*) *Copies.*—If a document is filed electronically, no paper copy is required. If a document is filed by mail or delivery to the district court or BAP, no additional copies are required. But the district court or BAP may require by local rule or by order in a particular case the filing or furnishing of a specified number of paper copies.

(*3*) *Clerk's refusal of documents.*—The court's clerk must not refuse to accept for filing any document transmitted for that purpose solely because it is not presented in proper form as required by these rules or by any local rule or practice.

(*b*) *Service of all documents required.*—Unless a rule requires service by the clerk, a party must, at or before the time of the filing of a document, serve it on the other parties to the appeal. Service on a party represented by counsel must be made on the party's counsel.

(*c*) *Manner of service.*

(*1*) *Methods.*—Service must be made electronically, unless it is being made by or on an individual who is not represented by counsel or the court's governing rules permit or require service by mail or other means of delivery. Service may be made by or on an unrepresented party by any of the following methods:

(A) personal delivery;

(B) mail; or

(C) third-party commercial carrier for delivery within 3 days.

(*2*) *When service is complete.*—Service by electronic means is complete on transmission, unless the party making service receives notice that the document was not transmitted successfully. Service by mail or by commercial carrier is complete on mailing or delivery to the carrier.

(*d*) *Proof of service.*

(*1*) *What is required.*—A document presented for filing must contain either:

(A) an acknowledgment of service by the person served; or

(B) proof of service consisting of a statement by the person who made service certifying:

(i) the date and manner of service;

(ii) the names of the persons served; and

(iii) the mail or electronic address, the fax number, or the address of the place of delivery, as appropriate for the manner of service, for each person served.

(*2*) *Delayed proof.*—The district or BAP clerk may permit documents to be filed without acknowledgment or proof of service, but must require the acknowledgment or proof to be filed promptly thereafter.

(*3*) *Brief or appendix.*—When a brief or appendix is filed, the proof of service must also state the date and manner by which it was filed.

(*e*) *Signature.*—Every document filed electronically must include the electronic signature of the person filing it or, if the person is represented, the electronic signature of counsel. The electronic signature must be provided by electronic means that are consistent with any technical standards that the Judicial Conference of the United States establishes. Every document filed in paper form must be signed by the person filing the document or, if the person is represented, by counsel.

Rule 8012. Corporate disclosure statement.

(*a*) *Who must file.*—Any nongovernmental corporate party appearing in the district court or BAP must file a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or states that there is no such corporation.

(*b*) *Time to file; supplemental filing.*—A party must file the statement with its principal brief or upon filing a motion, response, petition, or answer in the district court or BAP,

whichever occurs first, unless a local rule requires earlier filing. Even if the statement has already been filed, the party's principal brief must include a statement before the table of contents. A party must supplement its statement whenever the required information changes.

Rule 8013. Motions; intervention.

(*a*) *Contents of a motion; response; reply.*

(*1*) *Request for relief.*—A request for an order or other relief is made by filing a motion with the district or BAP clerk, with proof of service on the other parties to the appeal.

(*2*) *Contents of a motion.*

(*A*) *Grounds and the relief sought.*—A motion must state with particularity the grounds for the motion, the relief sought, and the legal argument necessary to support it.

(*B*) *Motion to expedite an appeal.*—A motion to expedite an appeal must explain what justifies considering the appeal ahead of other matters. If the district court or BAP grants the motion, it may accelerate the time to transmit the record, the deadline for filing briefs and other documents, oral argument, and the resolution of the appeal. A motion to expedite an appeal may be filed as an emergency motion under subdivision (d).

(*C*) *Accompanying documents.*

(i) Any affidavit or other document necessary to support a motion must be served and filed with the motion.

(ii) An affidavit must contain only factual information, not legal argument.

(iii) A motion seeking substantive relief must include a copy of the bankruptcy court's judgment, order, or decree, and any accompanying opinion as a separate exhibit.

(*D*) *Documents barred or not required.*

(i) A separate brief supporting or responding to a motion must not be filed.

(ii) Unless the court orders otherwise, a notice of motion or a proposed order is not required.

(*3*) *Response and reply; time to file.*—Unless the district court or BAP orders otherwise,

(A) any party to the appeal may file a response to the motion within 7 days after service of the motion; and

(B) the movant may file a reply to a response within 7 days after service of the response, but may only address matters raised in the response.

(*b*) *Disposition of a motion for a procedural order.*—The district court or BAP may rule on a motion for a procedural order—including a motion under Rule 9006(b) or (c)—at any time without awaiting a response. A party adversely affected by the ruling may move to reconsider, vacate, or modify it within 7 days after the procedural order is served.

(*c*) *Oral argument.*—A motion will be decided without oral argument unless the district court or BAP orders otherwise.

(*d*) *Emergency motion.*

(*1*) *Noting the emergency.*—When a movant requests expedited action on a motion because irreparable harm would occur during the time needed to consider a response, the movant must insert the word "Emergency" before the title of the motion.

(*2*) *Contents of the motion.*—The emergency motion must

(A) be accompanied by an affidavit setting out the nature of the emergency;

(B) state whether all grounds for it were submitted to the bankruptcy court and, if not, why the motion should not be remanded for the bankruptcy court to consider;

(C) include the e-mail addresses, office addresses, and telephone numbers of moving counsel and, when known, of opposing counsel and any unrepresented parties to the appeal; and

(D) be served as prescribed by Rule 8011.

(*3*) *Notifying opposing parties.*—Before filing an emergency motion, the movant must make every practicable effort to notify opposing counsel and any unrepresented parties in time for them to respond. The affidavit accompanying the emergency motion must state when and how notice was given or state why giving it was impracticable.

(*e*) *Power of a single BAP judge to entertain a motion.*

(*1*) *Single judge's authority.*—A BAP judge may act alone on any motion, but may not dismiss or otherwise determine an appeal, deny a motion for leave to appeal, or deny a motion for a stay pending appeal if denial would make the appeal moot.

(*2*) *Reviewing a single judge's action.*—The BAP may review a single judge's action, either on its own motion or on a party's motion.

(*f*) *Form of documents; page limits; number of copies.*

(*1*) *Format of a paper document.*—Rule 27(d)(1) F. R. App. P. applies in the district court or BAP to a paper version of a motion, response, or reply.

(*2*) *Format of an electronically filed document.*—A motion, response, or reply filed electronically must comply with the requirements for a paper version regarding covers, line spacing, margins, typeface, and type style. It must also comply with the page limits under paragraph (3).

(*3*) *Page limits.*—Unless the district court or BAP orders otherwise:

(A) a motion or a response to a motion must not exceed 20 pages, exclusive of the corporate disclosure statement and accompanying documents authorized by subdivision (a)(2)(C); and

(B) a reply to a response must not exceed 10 pages.

(*4*) *Paper copies.*—Paper copies must be provided only if required by local rule or by an order in a particular case.

(*g*) *Intervening in an appeal.*—Unless a statute provides otherwise, an entity that seeks to intervene in an appeal pending in the district court or BAP must move for leave to intervene and serve a copy of the motion on the parties to the

appeal. The motion or other notice of intervention authorized by statute must be filed within 30 days after the appeal is docketed. It must concisely state the movant's interest, the grounds for intervention, whether intervention was sought in the bankruptcy court, why intervention is being sought at this stage of the proceeding, and why participating as an amicus curiae would not be adequate.

Rule 8014. Briefs.

(*a*) *Appellant's brief.*—The appellant's brief must contain the following under appropriate headings and in the order indicated:

(1) a corporate disclosure statement, if required by Rule 8012;

(2) a table of contents, with page references;

(3) a table of authorities—cases (alphabetically arranged), statutes, and other authorities—with references to the pages of the brief where they are cited;

(4) a jurisdictional statement, including:

(A) the basis for the bankruptcy court's subject-matter jurisdiction, with citations to applicable statutory provisions and stating relevant facts establishing jurisdiction;

(B) the basis for the district court's or BAP's jurisdiction, with citations to applicable statutory provisions and stating relevant facts establishing jurisdiction;

(C) the filing dates establishing the timeliness of the appeal; and

(D) an assertion that the appeal is from a final judgment, order, or decree, or information establishing the district court's or BAP's jurisdiction on another basis;

(5) a statement of the issues presented and, for each one, a concise statement of the applicable standard of appellate review;

(6) a concise statement of the case setting out the facts relevant to the issues submitted for review, describing the relevant procedural history, and identifying the rulings

presented for review, with appropriate references to the record;

(7) a summary of the argument, which must contain a succinct, clear, and accurate statement of the arguments made in the body of the brief, and which must not merely repeat the argument headings;

(8) the argument, which must contain the appellant's contentions and the reasons for them, with citations to the authorities and parts of the record on which the appellant relies;

(9) a short conclusion stating the precise relief sought; and

(10) the certificate of compliance, if required by Rule 8015(a)(7) or (b).

(*b*) *Appellee's brief.*—The appellee's brief must conform to the requirements of subdivision (a)(1)–(8) and (10), except that none of the following need appear unless the appellee is dissatisfied with the appellant's statement:

(1) the jurisdictional statement;

(2) the statement of the issues and the applicable standard of appellate review; and

(3) the statement of the case.

(*c*) *Reply brief.*—The appellant may file a brief in reply to the appellee's brief. A reply brief must comply with the requirements of subdivision (a)(2)–(3).

(*d*) *Statutes, rules, regulations, or similar authority.*—If the court's determination of the issues presented requires the study of the Code or other statutes, rules, regulations, or similar authority, the relevant parts must be set out in the brief or in an addendum.

(*e*) *Briefs in a case involving multiple appellants or appellees.*—In a case involving more than one appellant or appellee, including consolidated cases, any number of appellants or appellees may join in a brief, and any party may adopt by reference a part of another's brief. Parties may also join in reply briefs.

(*f*) *Citation of supplemental authorities.*—If pertinent and significant authorities come to a party's attention after the party's brief has been filed—or after oral argument but before a decision—a party may promptly advise the district or BAP clerk by a signed submission setting forth the citations. The submission, which must be served on the other parties to the appeal, must state the reasons for the supplemental citations, referring either to the pertinent page of a brief or to a point argued orally. The body of the submission must not exceed 350 words. Any response must be made within 7 days after the party is served, unless the court orders otherwise, and must be similarly limited.

Rule 8015. Form and length of briefs; form of appendices and other papers.

(*a*) *Paper copies of a brief.*—If a paper copy of a brief may or must be filed, the following provisions apply:

(*1*) *Reproduction.*

(A) A brief may be reproduced by any process that yields a clear black image on light paper. The paper must be opaque and unglazed. Only one side of the paper may be used.

(B) Text must be reproduced with a clarity that equals or exceeds the output of a laser printer.

(C) Photographs, illustrations, and tables may be reproduced by any method that results in a good copy of the original. A glossy finish is acceptable if the original is glossy.

(*2*) *Cover.*—The front cover of a brief must contain:

(A) the number of the case centered at the top;

(B) the name of the court;

(C) the title of the case as prescribed by Rule 8003(d)(2) or 8004(c)(2);

(D) the nature of the proceeding and the name of the court below;

(E) the title of the brief, identifying the party or parties for whom the brief is filed; and

(F) the name, office address, telephone number, and e-mail address of counsel representing the party for whom the brief is filed.

(*3*) *Binding.*—The brief must be bound in any manner that is secure, does not obscure the text, and permits the brief to lie reasonably flat when open.

(*4*) *Paper size, line spacing, and margins.*—The brief must be on 8½-by-11 inch paper. The text must be double-spaced, but quotations more than two lines long may be indented and single-spaced. Headings and footnotes may be single-spaced. Margins must be at least one inch on all four sides. Page numbers may be placed in the margins, but no text may appear there.

(*5*) *Typeface.*—Either a proportionally spaced or monospaced face may be used.

(A) A proportionally spaced face must include serifs, but sans-serif type may be used in headings and captions. A proportionally spaced face must be 14-point or larger.

(B) A monospaced face may not contain more than 10½ characters per inch.

(*6*) *Type styles.*—A brief must be set in plain, roman style, although italics or boldface may be used for emphasis. Case names must be italicized or underlined.

(*7*) *Length.*

(*A*) *Page limitation.*—A principal brief must not exceed 30 pages, or a reply brief 15 pages, unless it complies with (B) and (C).

(*B*) *Type-volume limitation.*

(i) A principal brief is acceptable if:

- it contains no more than 14,000 words; or
- it uses a monospaced face and contains no more than 1,300 lines of text.

(ii) A reply brief is acceptable if it contains no more than half of the type volume specified in item (i).

(iii) Headings, footnotes, and quotations count toward the word and line limitations. The corporate

disclosure statement, table of contents, table of citations, statement with respect to oral argument, any addendum containing statutes, rules, or regulations, and any certificates of counsel do not count toward the limitation.

(*C*) *Certificate of compliance.*

(i) A brief submitted under subdivision (a)(7)(B) must include a certificate signed by the attorney, or an unrepresented party, that the brief complies with the type-volume limitation. The person preparing the certificate may rely on the word or line count of the word-processing system used to prepare the brief. The certificate must state either:

- the number of words in the brief; or
- the number of lines of monospaced type in the brief.

(ii) The certification requirement is satisfied by a certificate of compliance that conforms substantially to the appropriate Official Form.

(*b*) *Electronically filed briefs.*—A brief filed electronically must comply with subdivision (a), except for (a)(1), (a)(3), and the paper requirement of (a)(4).

(*c*) *Paper copies of appendices.*—A paper copy of an appendix must comply with subdivision (a)(1), (2), (3), and (4), with the following exceptions:

(1) An appendix may include a legible photocopy of any document found in the record or of a printed decision.

(2) When necessary to facilitate inclusion of odd-sized documents such as technical drawings, an appendix may be a size other than 8½-by-11 inches, and need not lie reasonably flat when opened.

(*d*) *Electronically filed appendices.*—An appendix filed electronically must comply with subdivision (a)(2) and (4), except for the paper requirement of (a)(4).

(*e*) *Other documents.*

(*1*) *Motion.*—Rule 8013(f) governs the form of a motion, response, or reply.

(*2*) *Paper copies of other documents.*—A paper copy of any other document, other than a submission under Rule 8014(f), must comply with subdivision (a), with the following exceptions:

(A) A cover is not necessary if the caption and signature page together contain the information required by subdivision (a)(2).

(B) Subdivision (a)(7) does not apply.

(*3*) *Other documents filed electronically.*—Any other document filed electronically, other than a submission under Rule 8014(f), must comply with the appearance requirements of paragraph (2).

(*f*) *Local variation.*—A district court or BAP must accept documents that comply with the applicable requirements of this rule. By local rule, a district court or BAP may accept documents that do not meet all of the requirements of this rule.

Rule 8016. Cross-appeals

(*a*) *Applicability.*—This rule applies to a case in which a cross-appeal is filed. Rules 8014(a)–(c), 8015(a)(7)(A)–(B), and 8018(a)(1)–(3) do not apply to such a case, except as otherwise provided in this rule.

(*b*) *Designation of appellant.*—The party who files a notice of appeal first is the appellant for purposes of this rule and Rule 8018(a)(4) and (b) and Rule 8019. If notices are filed on the same day, the plaintiff, petitioner, applicant, or movant in the proceeding below is the appellant. These designations may be modified by the parties' agreement or by court order.

(*c*) *Briefs.*—In a case involving a cross-appeal:

(*1*) *Appellant's principal brief.*—The appellant must file a principal brief in the appeal. That brief must comply with Rule 8014(a).

(*2*) *Appellee's principal and response brief.*—The appellee must file a principal brief in the cross-appeal and must, in the same brief, respond to the principal brief in

the appeal. That brief must comply with Rule 8014(a), except that the brief need not include a statement of the case unless the appellee is dissatisfied with the appellant's statement.

(*3*) *Appellant's response and reply brief.*—The appellant must file a brief that responds to the principal brief in the cross-appeal and may, in the same brief, reply to the response in the appeal. That brief must comply with Rule 8014(a)(2)–(8) and (10), except that none of the following need appear unless the appellant is dissatisfied with the appellee's statement in the cross-appeal:

(A) the jurisdictional statement;

(B) the statement of the issues and the applicable standard of appellate review; and

(C) the statement of the case.

(*4*) *Appellee's reply brief.*—The appellee may file a brief in reply to the response in the cross-appeal. That brief must comply with Rule 8014(a)(2)–(3) and (10) and must be limited to the issues presented by the cross-appeal.

(*d*) *Length.*

(*1*) *Page limitation.*—Unless it complies with paragraphs (2) and (3), the appellant's principal brief must not exceed 30 pages; the appellee's principal and response brief, 35 pages; the appellant's response and reply brief, 30 pages; and the appellee's reply brief, 15 pages.

(*2*) *Type-volume limitation.*

(A) The appellant's principal brief or the appellant's response and reply brief is acceptable if:

(i) it contains no more than 14,000 words; or

(ii) it uses a monospaced face and contains no more than 1,300 lines of text.

(B) The appellee's principal and response brief is acceptable if:

(i) it contains no more than 16,500 words; or

(ii) it uses a monospaced face and contains no more than 1,500 lines of text.

(C) The appellee's reply brief is acceptable if it contains no more than half of the type volume specified in subparagraph (A).

(D) Headings, footnotes, and quotations count toward the word and line limitations. The corporate disclosure statement, table of contents, table of citations, statement with respect to oral argument, any addendum containing statutes, rules, or regulations, and any certificates of counsel do not count toward the limitation.

(*3*) *Certificate of compliance.*—A brief submitted either electronically or in paper form under paragraph (2) must comply with Rule 8015(a)(7)(C).

(*e*) *Time to serve and file a brief.*—Briefs must be served and filed as follows, unless the district court or BAP by order in a particular case excuses the filing of briefs or specifies different time limits:

(1) the appellant's principal brief, within 30 days after the docketing of notice that the record has been transmitted or is available electronically;

(2) the appellee's principal and response brief, within 30 days after the appellant's principal brief is served;

(3) the appellant's response and reply brief, within 30 days after the appellee's principal and response brief is served; and

(4) the appellee's reply brief, within 14 days after the appellant's response and reply brief is served, but at least 7 days before scheduled argument unless the district court or BAP, for good cause, allows a later filing.

Rule 8017. Brief of an amicus curiae.

(*a*) *When permitted.*—The United States or its officer or agency or a state may file an amicus-curiae brief without the consent of the parties or leave of court. Any other amicus curiae may file a brief only by leave of court or if the brief states that all parties have consented to its filing. On its own motion, and with notice to all parties to an appeal, the

district court or BAP may request a brief by an amicus curiae.

(*b*) *Motion for leave to file.*—The motion must be accompanied by the proposed brief and state:

(1) the movant's interest; and

(2) the reason why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the appeal.

(*c*) *Contents and form.*—An amicus brief must comply with Rule 8015. In addition to the requirements of Rule 8015, the cover must identify the party or parties supported and indicate whether the brief supports affirmance or reversal. If an amicus curiae is a corporation, the brief must include a disclosure statement like that required of parties by Rule 8012. An amicus brief need not comply with Rule 8014, but must include the following:

(1) a table of contents, with page references;

(2) a table of authorities—cases (alphabetically arranged), statutes, and other authorities—with references to the pages of the brief where they are cited;

(3) a concise statement of the identity of the amicus curiae, its interest in the case, and the source of its authority to file;

(4) unless the amicus curiae is one listed in the first sentence of subdivision (a), a statement that indicates whether:

(A) a party's counsel authored the brief in whole or in part;

(B) a party or a party's counsel contributed money that was intended to fund preparing or submitting the brief; and

(C) a person—other than the amicus curiae, its members, or its counsel—contributed money that was intended to fund preparing or submitting the brief and, if so, identifies each such person;

(5) an argument, which may be preceded by a summary and need not include a statement of the applicable standard of review; and

(6) a certificate of compliance, if required by Rule 8015(a)(7)(C) or 8015(b).

(*d*) *Length.*—Except by the district court's or BAP's permission, an amicus brief must be no more than one-half the maximum length authorized by these rules for a party's principal brief. If the court grants a party permission to file a longer brief, that extension does not affect the length of an amicus brief.

(*e*) *Time for filing.*—An amicus curiae must file its brief, accompanied by a motion for filing when necessary, no later than 7 days after the principal brief of the party being supported is filed. An amicus curiae that does not support either party must file its brief no later than 7 days after the appellant's principal brief is filed. The district court or BAP may grant leave for later filing, specifying the time within which an opposing party may answer.

(*f*) *Reply brief.*—Except by the district court's or BAP's permission, an amicus curiae may not file a reply brief.

(*g*) *Oral argument.*—An amicus curiae may participate in oral argument only with the district court's or BAP's permission.

Rule 8018. Serving and filing briefs; appendices.

(*a*) *Time to serve and file a brief.*—The following rules apply unless the district court or BAP by order in a particular case excuses the filing of briefs or specifies different time limits:

(1) The appellant must serve and file a brief within 30 days after the docketing of notice that the record has been transmitted or is available electronically.

(2) The appellee must serve and file a brief within 30 days after service of the appellant's brief.

(3) The appellant may serve and file a reply brief within 14 days after service of the appellee's brief, but a reply brief must be filed at least 7 days before scheduled argu-

ment unless the district court or BAP, for good cause, allows a later filing.

(4) If an appellant fails to file a brief on time or within an extended time authorized by the district court or BAP, an appellee may move to dismiss the appeal—or the district court or BAP, after notice, may dismiss the appeal on its own motion. An appellee who fails to file a brief will not be heard at oral argument unless the district court or BAP grants permission.

(*b*) *Duty to serve and file an appendix to the brief.*

(*1*) *Appellant.*—Subject to subdivision (e) and Rule 8009(d), the appellant must serve and file with its principal brief excerpts of the record as an appendix. It must contain the following:

(A) the relevant entries in the bankruptcy docket;

(B) the complaint and answer, or other equivalent filings;

(C) the judgment, order, or decree from which the appeal is taken;

(D) any other orders, pleadings, jury instructions, findings, conclusions, or opinions relevant to the appeal;

(E) the notice of appeal; and

(F) any relevant transcript or portion of it.

(*2*) *Appellee.*—The appellee may also serve and file with its brief an appendix that contains material required to be included by the appellant or relevant to the appeal or cross-appeal, but omitted by the appellant.

(*3*) *Cross-appellee.*—The appellant as cross-appellee may also serve and file with its response an appendix that contains material relevant to matters raised initially by the principal brief in the cross-appeal, but omitted by the cross-appellant.

(*c*) *Format of the appendix.*—The appendix must begin with a table of contents identifying the page at which each part begins. The relevant docket entries must follow the table of contents. Other parts of the record must follow chronologically. When pages from the transcript of pro-

ceedings are placed in the appendix, the transcript page numbers must be shown in brackets immediately before the included pages. Omissions in the text of documents or of the transcript must be indicated by asterisks. Immaterial formal matters (captions, subscriptions, acknowledgments, and the like) should be omitted.

(*d*) *Exhibits.*—Exhibits designated for inclusion in the appendix may be reproduced in a separate volume or volumes, suitably indexed.

(*e*) *Appeal on the original record without an appendix.*—The district court or BAP may, either by rule for all cases or classes of cases or by order in a particular case, dispense with the appendix and permit an appeal to proceed on the original record, with the submission of any relevant parts of the record that the district court or BAP orders the parties to file.

Rule 8019. Oral argument.

(*a*) *Party's statement.*—Any party may file, or a district court or BAP may require, a statement explaining why oral argument should, or need not, be permitted.

(*b*) *Presumption of oral argument and exceptions.*—Oral argument must be allowed in every case unless the district judge—or all the BAP judges assigned to hear the appeal—examine the briefs and record and determine that oral argument is unnecessary because

(1) the appeal is frivolous;

(2) the dispositive issue or issues have been authoritatively decided; or

(3) the facts and legal arguments are adequately presented in the briefs and record, and the decisional process would not be significantly aided by oral argument.

(*c*) *Notice of argument; postponement.*—The district court or BAP must advise all parties of the date, time, and place for oral argument, and the time allowed for each side. A motion to postpone the argument or to allow longer argument must be filed reasonably in advance of the hearing date.

(*d*) *Order and contents of argument.*—The appellant opens and concludes the argument. Counsel must not read at length from briefs, the record, or authorities.

(*e*) *Cross-appeals and separate appeals.*—If there is a cross-appeal, Rule 8016(b) determines which party is the appellant and which is the appellee for the purposes of oral argument. Unless the district court or BAP directs otherwise, a cross-appeal or separate appeal must be argued when the initial appeal is argued. Separate parties should avoid duplicative argument.

(*f*) *Nonappearance of a party.*—If the appellee fails to appear for argument, the district court or BAP may hear the appellant's argument. If the appellant fails to appear for argument, the district court or BAP may hear the appellee's argument. If neither party appears, the case will be decided on the briefs unless the district court or BAP orders otherwise.

(*g*) *Submission on briefs.*—The parties may agree to submit a case for decision on the briefs, but the district court or BAP may direct that the case be argued.

(*h*) *Use of physical exhibits at argument; removal.*—Counsel intending to use physical exhibits other than documents at the argument must arrange to place them in the courtroom on the day of the argument before the court convenes. After the argument, counsel must remove the exhibits from the courtroom unless the district court or BAP directs otherwise. The clerk may destroy or dispose of the exhibits if counsel does not reclaim them within a reasonable time after the clerk gives notice to remove them.

Rule 8020. Frivolous appeal and other misconduct.

(*a*) *Frivolous appeal—damages and costs.*—If the district court or BAP determines that an appeal is frivolous, it may, after a separately filed motion or notice from the court and reasonable opportunity to respond, award just damages and single or double costs to the appellee.

(*b*) *Other misconduct.*—The district court or BAP may discipline or sanction an attorney or party appearing before

it for other misconduct, including failure to comply with any court order. First, however, the court must afford the attorney or party reasonable notice, an opportunity to show cause to the contrary, and, if requested, a hearing.

Rule 8021. Costs.

(*a*) *Against whom assessed.*—The following rules apply unless the law provides or the district court or BAP orders otherwise:

(1) if an appeal is dismissed, costs are taxed against the appellant, unless the parties agree otherwise;

(2) if a judgment, order, or decree is affirmed, costs are taxed against the appellant;

(3) if a judgment, order, or decree is reversed, costs are taxed against the appellee;

(4) if a judgment, order, or decree is affirmed or reversed in part, modified, or vacated, costs are taxed only as the district court or BAP orders.

(*b*) *Costs for and against the United States.*—Costs for or against the United States, its agency, or its officer may be assessed under subdivision (a) only if authorized by law.

(*c*) *Costs on appeal taxable in the bankruptcy court.*—The following costs on appeal are taxable in the bankruptcy court for the benefit of the party entitled to costs under this rule:

(1) the production of any required copies of a brief, appendix, exhibit, or the record;

(2) the preparation and transmission of the record;

(3) the reporter's transcript, if needed to determine the appeal;

(4) premiums paid for a supersedeas bond or other bonds to preserve rights pending appeal; and

(5) the fee for filing the notice of appeal.

(*d*) *Bill of costs; objections.*—A party who wants costs taxed must, within 14 days after entry of judgment on appeal, file with the bankruptcy clerk, with proof of service, an itemized and verified bill of costs. Objections must be filed

within 14 days after service of the bill of costs, unless the bankruptcy court extends the time.

Rule 8022. Motion for rehearing.

(*a*) *Time to file; contents; response; action by the district court or BAP if granted.*

(*1*) *Time.*—Unless the time is shortened or extended by order or local rule, any motion for rehearing by the district court or BAP must be filed within 14 days after entry of judgment on appeal.

(*2*) *Contents.*—The motion must state with particularity each point of law or fact that the movant believes the district court or BAP has overlooked or misapprehended and must argue in support of the motion. Oral argument is not permitted.

(*3*) *Response.*—Unless the district court or BAP requests, no response to a motion for rehearing is permitted. But ordinarily, rehearing will not be granted in the absence of such a request.

(*4*) *Action by the District Court or BAP.*—If a motion for rehearing is granted, the district court or BAP may do any of the following:

(A) make a final disposition of the appeal without reargument;

(B) restore the case to the calendar for reargument or resubmission; or

(C) issue any other appropriate order.

(*b*) *Form of the motion; length.*—The motion must comply in form with Rule 8013(f)(1) and (2). Copies must be served and filed as provided by Rule 8011. Unless the district court or BAP orders otherwise, a motion for rehearing must not exceed 15 pages.

Rule 8023. Voluntary dismissal.

The clerk of the district court or BAP must dismiss an appeal if the parties file a signed dismissal agreement specifying how costs are to be paid and pay any fees that are due.

An appeal may be dismissed on the appellant's motion on terms agreed to by the parties or fixed by the district court or BAP.

Rule 8024. Clerk's duties on disposition of the appeal.

(*a*) *Judgment on appeal.*—The district or BAP clerk must prepare, sign, and enter the judgment after receiving the court's opinion or, if there is no opinion, as the court instructs. Noting the judgment on the docket constitutes entry of judgment.

(*b*) *Notice of a judgment.*—Immediately upon the entry of a judgment, the district or BAP clerk must:

(1) transmit a notice of the entry to each party to the appeal, to the United States trustee, and to the bankruptcy clerk, together with a copy of any opinion; and

(2) note the date of the transmission on the docket.

(*c*) *Returning physical items.*—If any physical items were transmitted as the record on appeal, they must be returned to the bankruptcy clerk on disposition of the appeal.

Rule 8025. Stay of a district court or BAP judgment.

(*a*) *Automatic stay of judgment on appeal.*—Unless the district court or BAP orders otherwise, its judgment is stayed for 14 days after entry.

(*b*) *Stay pending appeal to the court of appeals.*

(*1*) *In general.*—On a party's motion and notice to all other parties to the appeal, the district court or BAP may stay its judgment pending an appeal to the court of appeals.

(*2*) *Time limit.*—The stay must not exceed 30 days after the judgment is entered, except for cause shown.

(*3*) *Stay continued.*—If, before a stay expires, the party who obtained the stay appeals to the court of appeals, the stay continues until final disposition by the court of appeals.

(*4*) *Bond or other security.*—A bond or other security may be required as a condition for granting or continuing a stay of the judgment. A bond or other security may be

required if a trustee obtains a stay, but not if a stay is obtained by the United States or its officer or agency or at the direction of any department of the United States government.

(*c*) *Automatic stay of an order, judgment, or decree of a bankruptcy court.*—If the district court or BAP enters a judgment affirming an order, judgment, or decree of the bankruptcy court, a stay of the district court's or BAP's judgment automatically stays the bankruptcy court's order, judgment, or decree for the duration of the appellate stay.

(*d*) *Power of a court of appeals not limited.*—This rule does not limit the power of a court of appeals or any of its judges to do the following:

(1) stay a judgment pending appeal;

(2) stay proceedings while an appeal is pending;

(3) suspend, modify, restore, vacate, or grant a stay or an injunction while an appeal is pending; or

(4) issue any order appropriate to preserve the status quo or the effectiveness of any judgment to be entered.

Rule 8026. Rules by circuit councils and district courts; procedure when there is no controlling law.

(*a*) *Local rules by circuit councils and district courts.*

(*1*) *Adopting local rules.*—A circuit council that has authorized a BAP under 28 U. S. C. § 158(b) may make and amend rules governing the practice and procedure on appeal from a judgment, order, or decree of a bankruptcy court to the BAP. A district court may make and amend rules governing the practice and procedure on appeal from a judgment, order, or decree of a bankruptcy court to the district court. Local rules must be consistent with, but not duplicative of, Acts of Congress and these Part VIII rules. Rule 83 F. R. Civ. P. governs the procedure for making and amending rules to govern appeals.

(*2*) *Numbering.*—Local rules must conform to any uniform numbering system prescribed by the Judicial Conference of the United States.

(*3*) *Limitation on imposing requirements of form.*—A local rule imposing a requirement of form must not be enforced in a way that causes a party to lose any right because of a nonwillful failure to comply.

(*b*) *Procedure when there is no controlling law.*

(*1*) *In general.*—A district court or BAP may regulate practice in any manner consistent with federal law, applicable federal rules, the Official Forms, and local rules.

(*2*) *Limitation on sanctions.*—No sanction or other disadvantage may be imposed for noncompliance with any requirement not in federal law, applicable federal rules, the Official Forms, or local rules unless the alleged violator has been furnished in the particular case with actual notice of the requirement.

Rule 8027. Notice of a mediation procedure.

If the district court or BAP has a mediation procedure applicable to bankruptcy appeals, the clerk must notify the parties promptly after docketing the appeal of:

(a) the requirements of the mediation procedure; and

(b) any effect the mediation procedure has on the time to file briefs.

Rule 8028. Suspension of rules in Part VIII.

In the interest of expediting decision or for other cause in a particular case, the district court or BAP, or where appropriate the court of appeals, may suspend the requirements or provisions of the rules in Part VIII, except Rules 8001, 8002, 8003, 8004, 8005, 8006, 8007, 8012, 8020, 8024, 8025, 8026, and 8028.

Rule 9023. New trials; amendment of judgments.

Except as provided in this rule and Rule 3008, Rule 59 F. R. Civ. P. applies in cases under the Code. A motion for a new trial or to alter or amend a judgment shall be filed, and a court may on its own order a new trial, no later than 14 days after entry of judgment. In some circumstances,

Rule 8008 governs post-judgment motion practice after an appeal has been docketed and is pending.

Rule 9024. Relief from judgment or order.

Rule 60 F. R. Civ. P. applies in cases under the Code except that (1) a motion to reopen a case under the Code or for the reconsideration of an order allowing or disallowing a claim against the estate entered without a contest is not subject to the one year limitation prescribed in Rule 60(c), (2) a complaint to revoke a discharge in a chapter 7 liquidation case may be filed only within the time allowed by § 727(e) of the Code, and (3) a complaint to revoke an order confirming a plan may be filed only within the time allowed by § 1144, § 1230, or § 1330. In some circumstances, Rule 8008 governs post-judgment motion practice after an appeal has been docketed and is pending.