

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

In the matter of

AMENDMENTS TO THE LOCAL
BANKRUPTCY RULES FOR THE
DISTRICT OF ALASKA

MISCELLANEOUS
GENERAL ORDER
NO. 15-11

IT IS HEREBY ORDERED THAT effective **December 1, 2015:**

The “Related Provisions” in Local Bankruptcy Rule 8001 is amended as follows:

Official Form 17A — Notice of Appeal and Statement of Elections is amended to refer to Official Form B417A — Notice of Appeal and Statement of Election.

Official Form 17B — Appellee Statement of Election to Proceed in District Court is amended to refer to Official Form B417B — Appellee Statement of Election to Proceed in District Court

Local Bankruptcy Rule 9033-1 is hereby amended to read as follows:

Rule 9033-1 Proceedings in Which the Bankruptcy Court May Not Enter Final Orders

(a) **General** In any proceeding in which the bankruptcy court may not enter a final order or judgment, the proceeding will not be transferred to the district court except upon the granting of a motion to withdraw the reference under Rule 5011, Federal Rules of Bankruptcy Procedure or as provided in AK LBR 9015-2.

(b) **Dispositive Matters.** Except as otherwise provided by statute or the Federal Rules of Bankruptcy Procedure, in any proceeding referred to the bankruptcy court in matters otherwise governed by this rule, motions made under Rules 12(b), 12(c), 12(f), and 56, Federal Rules of Civil Procedure, are governed by Rule 9033, Federal Rules of Bankruptcy Procedure; provided, however, that the bankruptcy court may rule on any Rule 12(b) motion if the defect may be cured by amendment of the pleading and leave to amend is granted.

(c) **Nondispositive Matters.**

(1) Except as otherwise provided by statute, the Federal Rules of Bankruptcy Procedure, or ordered by the district court, nondispositive matters in proceeding referred to the bankruptcy court will be heard and determined by the bankruptcy court; provided, however, that any order imposing dismissal or the striking of a claim or defense as a sanction is deemed a dispositive matter.

(2) [A] Within fourteen (14) days after being served with a copy of the order of the bankruptcy judge, a party may serve and file objections to the order; a party may not thereafter assign as error a defect in the bankruptcy judge’s order to which

objection was not timely made.

[B] The district judge to whom the matter is assigned will consider the objection and must modify or set aside any portion of the bankruptcy judge's order found to be clearly erroneous or contrary to law.

Related Provisions:

28 U.S.C. § 157	Procedures
Fed. R. Civ. P. 12	Defenses and Objections—When and How Presented—By Pleading or Motion—Motion for Judgment on the Pleadings
Fed. R. Civ. P. 44.1	Determination of Foreign Law
Fed. R. Civ. P. 56	Summary Judgment
Fed. R. Civ. P. 72	Magistrate Judges; Pretrial Orders
Fed. R. Bank. P. 7008	General Rules of Pleading
Fed. R. Bank. P. 7012	Defenses and Objections—When and How Presented—By Pleading or Motion—Motion for Judgment on the Pleading
Fed. R. Bank. P. 9033	Proposed Findings of Fact and Conclusions of Law
AK LBR 9015-1	Jury Trials
AK LBR 9015-2	District Court Jury Trials—Pretrial Procedures

Interim Local Bankruptcy Rules 9027-1 and 9033-2 are hereby made permanent.

DATED at Anchorage, Alaska this 12th day of November, 2015.

s/ Ralph R. Beistline
RALPH R. BEISTLINE, Chief Judge
United States District Court

s/ Timothy M. Burgess
TIMOTHY M. BURGESS, Judge
United States District Court

s/ Sharon L. Gleason
SHARON L. GLEASON, Judge
United States District Court

Distribution:

District Judges	Magistrate Judges (Full Time)
Senior District Judges	Magistrate Judges (Part Time)
Bankruptcy Judges	Clerk of the Court
Court Rules Attorney	Assistant U.S. Trustee
Clerk of the Bankruptcy Court	

AMENDMENTS EFFECTIVE DECEMBER 1, 2014

Rule 8001-1 Appeals

(a) **Bankruptcy Appellate Panel.** Except to the extent otherwise provided by statute or the Federal Rules of Bankruptcy Procedure, appeals from the United States Bankruptcy Court for the District of Alaska will be heard by the Bankruptcy Appellate Panel of the Ninth Circuit.

(b) **District Court.**

(1) Unless otherwise specifically provided in these rules, the provisions of Part VIII (Rule 8001, *et seq*), Federal Rules of Bankruptcy Procedure, apply to appeals from the U.S. Bankruptcy Court heard by the United States District Court for the District of Alaska.

(2) In the event of any conflict between these Rules and the Federal Rules of Bankruptcy Procedure, the Federal Rules of Bankruptcy Procedure prevail.

Related Provisions:

28 U.S.C. § 158	Appeals
Misc. General Order 503	Order Referring Bankruptcy Cases and Proceedings to Bankruptcy Judges and Authorizing Bankruptcy Appeals to be Decided by the 9th Circuit Bankruptcy Appellate Panel
Fed. R. Bank. P., Part VIII	Appeals to District Court or Bankruptcy Appellate Panel
Fed. R. Bank. P. 8001	Scope of Part VIII Rules; Definition of “BAP”; Method of Transmission
Fed. R. Bank. P. 8002	Time for Filing Notice of Appeal
Fed. R. Bank. P. 8003	Appeal as of Right—How Taken; Docketing the Appeal
Fed. R. Bank. P. 8004	Appeal by Leave—How Taken; Docketing the Appeal
Fed. R. Bank. P. 8005	Election to Have an Appeal Heard by the District Court Instead of the BAP
Fed. R. Bank. P. 8006	Certifying a Direct Appeal to the Court of Appeals
Official Form 17A	Notice of Appeal
Federal Rules of Appellate Procedure	
Rules of the United States Bankruptcy Appellate Panel of the Ninth Circuit	

Rule 8015-1 Form and Length of Briefs; Form of Appendices and Other Papers

(a) **Form of Briefs.**

(1) Briefs must conform to Rule 8015, Federal Rules of Bankruptcy Procedure or District of Alaska Local Rule 10.1(a).

(2) References to the record on appeal must be made to:

(A) the docket entry number and page of the pleading; or

(B) the volume and page of the transcript of any oral proceedings.

(b) **Request to File Overlength Brief.**

(1) A request to file an overlength brief must be made by motion not later than the date the brief is due and set forth with particularity the reason(s) it is necessary to file an overlength brief.

(2) Unless otherwise ordered by the court, no opposition to a motion to file an overlength brief may be filed.

(3) A motion to file an overlength brief extends the time to file the brief for the time the motion is pending before the district judge plus seven (7) days after the motion is granted or denied.

(4) A motion to file an overlength brief not acted upon by the district judge within fourteen (14) days after the date the motion is filed will be deemed denied and the brief conforming to the rules must be filed within seven (7) days thereafter.

Related Provisions:

Fed. R. Bank. P. 8014	Briefs
Fed. R. Bank. P. 8015	Form and Length of Briefs; Form of Appendices and Other Papers
Fed. R. Bank. P. 8016	Cross-Appeals
Fed. R. Bank. P. 8017	Brief of an Amicus Curiae
D.Ak. LR 10.1	Form of Pleadings, Motions and other Papers

Rule 8018-1 Extension of Time to File Briefs

(a) **By Stipulation.** The parties may, by written stipulation filed with the court, extend the time for filing any brief for a period not to exceed fourteen (14) days, which stipulation does not require approval by the court.

(b) **By Motion.**

(1) A party requesting an extension of time within which to file a brief, other than as provided in subdivision (a), must do so by motion.

(2) A motion to extend the time for filing a brief must be served and filed on or before the date the brief is due.

(3) The moving party must set forth in the motion:

(A) that the moving party has conferred with the other party(ies) to the appeal and advise the court whether the motion is opposed or unopposed;

(B) the date the brief is due;

(C) whether any other extensions have been granted;

(D) the reason(s) the extension is requested; and

(E) the amount of time requested.

(4) A party opposing the motion for an extension may serve and file a written opposition within seven (7) days after the motion is served.

Related Provisions:

Fed. R. Bank. P. 8016	Cross-Appeals
Fed. R. Bank. P. 8018	Serving and Filing Briefs; Appendices
Fed. R. Bank. P. 9006	Time
AK LBR 8018-2	Failure to Timely File Briefs

Rule 8018-2 Failure to Timely File Briefs

(a) Leave to File Late Brief.

(1) A brief may be filed after the time for filing a brief, including any extensions of time for filing, has lapsed only by leave of the court.

(2) Leave of court must be obtained by motion and, unless otherwise ordered by the court, no opposition to the motion may be served and filed.

(3) The moving party must set forth in the motion:

(A) that the moving party has conferred with the other party(ies) to the appeal and must advise the court whether the motion is opposed or unopposed;

(B) the date the brief was due;

(C) whether any extensions were given to file the brief; and

(4) The motion must be accompanied by:

(A) an affidavit or declaration under penalty of perjury stating the reason for seeking leave to file the brief late; and

(B) a copy of the brief proposed to be filed.

(b) Failure by Appellant to File Brief. In the event the appellant fails to file appellant's principal brief by the time the principal brief is due, including any extensions of time for filing, the clerk will issue a notice that unless, within ten (10) days after notice is sent, the brief, together with a motion under subsection (a) is filed, or good cause for the failure to file the brief be shown, the clerk will enter an order dismissing the appeal.

(c) Failure By Appellee to File Brief. Failure by an appellee to file appellee's principal brief may be deemed by the court as an admission that the appeal is well-taken.

Related Provisions:

AK LBR 8018-1 Extension of Time to File Briefs

Rule 8019-1 Oral Argument

(a) Setting of Oral Argument.

(1) Unless the court determines oral argument is not needed, the court will set the matter for oral argument on not less than twenty-eight (28) days notice to the parties.

(2) In the event the court deems oral argument is not needed, the court will give the parties notice of the determination and, unless a request for oral argument is made under subdivision (b) and granted by the court, the matter will be submitted on the briefs without oral argument.

(b) Request for Oral Argument. Any party desiring oral argument on all, or any part of, the issues presented on appeal must, within seven (7) days of the date notice is given under paragraph (a)(2), serve and file a request for oral argument, specifying the reason(s) oral argument is deemed necessary.

Related Provisions:

Fed. R. Bank. P. 8019 Oral Argument

Rule 8025-1 Stay Pending Appeal to a Court of Appeals

(a) Motion.

(1) A party filing a motion for stay pending further appeal to the court of appeals must set forth in the motion:

(A) the date that the notice of appeal to court of appeals was filed or is expected to be filed;

(B) whether a stay pending appeal to the district court was requested and the ruling thereon;

(C) that the moving party has conferred with the other party(ies) to the appeal and advise the court whether the stay is opposed or unopposed;

(D) with particularity the irreparable injury or harm that will result to the moving party in the event the stay is not granted;

(E) any known or anticipated harm or injury to any other party to the appeal or the public interest: and

(F) the moving party's suggestion regarding any condition, bond or security to be imposed as a condition of granting a stay.

(2) Any evidentiary matter referred to in the motion that is not a matter of record must be presented by affidavit or declaration under penalty of perjury.

(b) Opposition to Motion for Stay.

(1) A party opposing the motion for a stay pending further appeal may file a written opposition to the motion within fourteen (14) days after the date of service of the motion.

(2) The opposition to a motion for stay must set forth:

(A) with particularity the reasons for the opposition; and

(B) the opposing party's suggestion of any conditions, bond or security to be imposed as a condition of granting a stay.

(c) **Hearing.** Unless otherwise ordered by the court, a motion for a stay pending further appeal to the court of appeals will be submitted for decision without oral argument.

Related Provisions:

Fed. R. App. P. 8	Stay or Injunction Pending Appeal
Fed. R. Bank. P. 7062	Stay of Proceedings to Enforce a Judgment
Fed. R. Bank. P. 8025	Stay of Judgment of District Court or Bankruptcy Appellate Panel
Fed. R. Bank. P. 9006	Time
D.Ak. LR 10.1	Form of Pleadings and Other Papers

Rule 8026-1 Local District Court Rules Adopted

To the extent not inconsistent with the Federal Rules of Bankruptcy Procedure and these rules, the Local Rules for the United States District Court for the District of Alaska apply to bankruptcy appeals to this court.

Related Provisions:

Fed. R. Bank. P. 8026	Rules by Circuit Councils and District Courts; Procedure When There is No Controlling Law
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D.Ak LR 1.1	Scope and Purpose of the Rules
D.Ak LR 1.3	Sanctions
D.Ak LR 3.3	Venue and Place of Trial
D.Ak LR 5.1	Filing and Proof of Service When Service is Required by Rule 5, Federal Rules of Civil Procedure
D.Ak LR 5.5	Service on Parties by the Court
D.Ak LR 7.1	Motion Practice
D.Ak LR 7.3	Telephonic Participation in Civil Cases
D.Ak LR 7.4	Proposed Orders
D.Ak LR 10.1	Form of Pleadings and Other Papers
D.Ak LR 39.5	Courtroom Conduct
D.Ak LR 40.1	Judicial Assignments
D.Ak LR 40.2	Notice of Related Cases
D.Ak LR 80.1	Record of Proceedings
D.Ak LR 82.1	Photographs, Video or Audio Recorders, Broadcasts Prohibited
D.Ak LR 83.1	Attorneys
D.Ak LR 83.2	Student Practice Rule