

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**NOTICE OF PROPOSED LOCAL RULE
CHANGE AND OPPORTUNITY TO COMMENT**

PROPOSED CHANGES TO LOCAL RULES

The United States District Court for the District of Columbia at its January Executive Session approved the publication of the following proposed rule changes for notice and comment.

Pursuant to Local Civil Rule 1.1 (b), the Court is required to advise that the proposed rule will be adopted unless modified or withdrawn by the Court after receiving comments from organized bar associations, members of the bar, and the public. Such comments must be made in writing by March 23, 2017 and should be addressed to John Aldock, Esq., Chairman, Advisory Committee on Local Rules, Goodwin Procter LLP, 901 New York Avenue, N.W; Washington, DC 20001.

ANGELA D. CAESAR, CLERK

APPENDIX A

**DISTRICT COURT'S LOCAL
BANKRUPTCY RULES AS THEY WOULD BE REVISED**

ADMINISTRATION OF THE BANKRUPTCY SYSTEM¹

DCt.LBR 5005-1

MAKING DOCUMENTS FILED UNDER SEAL IN THE BANKRUPTCY COURT PART OF THE RECORD IN THE DISTRICT COURT

When a party wishes a document placed under seal by the Bankruptcy Court to be part of the record considered by the District Court in ruling on (1) a motion to withdraw the reference under DCt.LBR 5011-2; or (2) a de novo review under DCt.LBR 9033-1; or (3) any other non-appellate matter, the party must:

(1) identify the document, without revealing confidential or secret information, as being part of the record the party wishes the District Court to consider; and

(2) file a motion with the District Court to accept the document under seal.

If the motion is granted, the movant must notify the Bankruptcy Court of the ruling, and the Clerk of the Bankruptcy Court must promptly transmit the sealed document to the Clerk of the District Court.

COMMENT TO DCt.LBR 5005-1: This rule is modeled on the similar rule in Bankruptcy Rule 8009(f), which governs the designation of sealed documents as part of the record on an appeal. DCt.LCvR 5.1(h) governs the sealing of documents in the District Court.

DCt.LBR 5011-1

REFERENCE TO BANKRUPTCY JUDGES

(a) GENERAL.

Pursuant to 28 U.S.C. § 157(a), all cases under Title 11 and all proceedings arising under Title 11 or arising in or related to a case under Title 11 are referred to the bankruptcy judges of this District.

¹ DCt.LBRs 5005-1 through 9033-1 supplement the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and deal with the matters (references, *de novo* reviews, appeals, *etc.*) governing the relationship between the United States District Court and the United States Bankruptcy Court. The United States Bankruptcy Court has its own local rules governing procedures within that court.

(b) REFERRAL INCLUDES ANY CIVIL ACTION REMOVED ON THE BASIS THAT THE DISTRICT COURT HAS JURISDICTION OVER THE CIVIL ACTION UNDER 28 U.S.C. § 1334.

The referral pursuant to paragraph (a) of proceedings to the bankruptcy judges of this District includes any civil action (or claim or cause of action in a civil action) removed on the basis that the District Court has jurisdiction over the civil action under 28 U.S.C. § 1334. DCt.LBR 9027-1 governs such removal.

(c) FILING OF DOCUMENTS IN A REFERRED CASE OR PROCEEDING.

Except as otherwise provided in DCt.LBR 5011-5, and in the Bankruptcy Rules relating to appeals, all documents filed in any such referred case or proceeding, including the original bankruptcy petition, must be filed with the Clerk of the Bankruptcy Court and must be captioned “United States Bankruptcy Court for the District of Columbia.”

(d) EMERGENCY MATTERS WHEN NO BANKRUPTCY JUDGE IS AVAILABLE.

When the Bankruptcy Court or Clerk thereof files a notice in the Bankruptcy Court that no bankruptcy judge is available to hear an emergency matter that requires immediate action, the reference to the Bankruptcy Court of the emergency matter is deemed withdrawn, and:

- (1) the Clerk of the Bankruptcy Court must transmit copies of the notice and the papers relating to the emergency matter to the Clerk of the District Court who must docket the emergency matter (1) as a miscellaneous matter, under the title of the bankruptcy case and the title of any adversary proceeding in which the emergency matter has arisen, and (2) as assigned to the Motions Judge under DCt.LCvR 40.8(b)(2);
- (2) the Clerk of the District Court must give notice to the parties that the emergency matter has been withdrawn and that, unless otherwise ordered, further papers relating to the emergency matter must be filed with the Clerk of the District Court bearing the Miscellaneous Number assigned to the withdrawn emergency matter;
- (3) if the Motions Judge determines that there is no emergency requiring action on the matter (or part thereof) before a bankruptcy judge is available, the Motions Judge may enter an order declining to decide the matter (or part thereof) and terminate the withdrawal of the matter or part thereof, as the case may be;
- (4) the Motions Judge shall otherwise decide the emergency matter, but any subsequent motion related to the Motions Judge’s order disposing of the emergency matter must be filed in the Bankruptcy Court and handled by a bankruptcy judge, if available, unless the Motions Judge who heard the emergency

matter:

- in the order disposing of the emergency matter or a subsequent order issued on the Motions Judge's own initiative; or
- on motion of a party filed in the District Court in the miscellaneous matter; or
- upon a recommendation of the bankruptcy judge transmitted to the same Motions Judge who heard the emergency matter,

orders for cause that the same Motions Judge will handle the subsequent motion, in which event the reference of the subsequent motion will be deemed withdrawn for disposition in the miscellaneous matter, and the Clerk of the Bankruptcy Court must transmit to the Clerk of the District Court for docketing under the Miscellaneous Number the papers relating to the subsequent motion.

COMMENT TO DCt.LBR 5011-1: Paragraph (a)'s reference to "bankruptcy judges" includes, in addition to the bankruptcy judge appointed for this district under 28 U.S.C. § 152(a)(1), any retired bankruptcy judge recalled under 28 U.S.C. §§ 155(b) or 375, and any bankruptcy judge sitting by designation under 28 U.S.C. § 155(a).

Paragraph (b) clarifies that civil actions removed under 28 U.S.C. § 1452(a) (or under the more general removal provision of 28 U.S.C. § 1441(a)) on the basis that the District Court has jurisdiction over the civil action pursuant to the bankruptcy jurisdiction statute, 28 U.S.C. § 1334, are referred to the Bankruptcy Court. Pursuant to paragraph (c) and DCt.LBR 9027-1, the notice of removal of such a civil action must be captioned for the Bankruptcy Court.

Paragraph (d) provides for deemed withdrawal of emergency matters for which a bankruptcy judge is unavailable, thereby avoiding the necessity of a motion to withdraw the reference; provides for the Motions Judge to hear the emergency matter; and addresses the extent of that Motions Judge's hearing any proceeding related to the Motions Judge's disposition of the emergency matter (such as a motion for reconsideration).

DCt.LBR 5011-2

PLACE AND TIME FOR FILING MOTION TO WITHDRAW THE REFERENCE; CONTENTS OF MOTION

(a) FILING OF MOTION TO WITHDRAW THE REFERENCE

A motion for withdrawal in whole or in part of the reference of a case or proceeding

referred to a bankruptcy judge must bear the caption of the Bankruptcy Court, and be filed with the Clerk of the Bankruptcy Court, accompanied by the required filing fee, and the movant's designation of the record. The bankruptcy judge may *sua sponte* file, and have the Clerk of the Bankruptcy Court transmit, a request to withdraw the reference.

(b) TIME FOR FILING OF MOTION TO WITHDRAW THE REFERENCE OF BANKRUPTCY CASE.

A motion to withdraw the reference of the bankruptcy case or a part thereof (as opposed to a specific proceeding within the bankruptcy case) must be filed and served on or before 21 days after the first date scheduled for the meeting of creditors held pursuant to 11 U.S.C. § 341(a), or, if later, within 35 days of service of the paper giving rise to the basis for the motion to withdraw the reference.

(c) TIME FOR FILING OF MOTION TO WITHDRAW THE REFERENCE OF A PROCEEDING WITHIN THE BANKRUPTCY CASE.

A motion to withdraw the reference of a proceeding within the bankruptcy case (including an adversary proceeding, or contested matter, or any other matter seeking entry of an order), or a part of the proceeding, must be served and filed within 35 days of service of the paper giving rise to the basis for the motion to withdraw the reference.

(d) CONTENTS OF MOTION.

A motion for withdrawal of the reference must include the following:

- (1) a specification of the case or proceedings to be withdrawn;
- (2) the facts necessary to understand the grounds presented in support of the requested withdrawal of the reference;
- (3) the reasons why the withdrawal of the reference should be granted;
- (4) a copy of the docket sheet of the case or proceeding for which withdrawal of the reference is requested;
- (5) a separate list of any documents filed in the Bankruptcy Court that are relevant to the motion for withdrawal of the reference, including the date of filing, the document number, and the title of each such document; and

- (6) copies of the listed relevant documents (other than documents that were filed under seal), appended to the list in chronological sequence, with each document to bear the Electronic Case Filing header showing the document number and date of filing in the Bankruptcy Court .

***COMMENT TO DCt.LBR 5011-2:** This Rule and Rule 5011-6 provide for relevant documents that were filed in the Bankruptcy Court to be appended to lists submitted with the motion and the opposition. That eliminates the cumbersome procedures that a designation of the record and transmittal of the record by the Clerk of the Bankruptcy Court would entail. DCt.LBR 5011-7 addresses making a transcript part of the record when that transcript is not yet available to be appended to the motion to withdraw the reference or to the opposition, as the case may be.*

DCt.LBR 5011-3

APPLICABILITY, WHEN A MOTION TO WITHDRAW THE REFERENCE HAS BEEN FILED, OF DISTRICT COURT LOCAL CIVIL RULES TO DOCUMENTS INTENDED FOR DISTRICT COURT

By reason of DCt.LBR 9029-2:

- (1) DCt.LCvR 5.1 (Form and Filing of Documents) applies to the motion to withdraw the reference, the opposition thereto, any reply, and any further filings.
- (2) DCt.LCvR 7 paragraphs (a) through (f) (setting forth requirements governing the statement of point and authorities in support of a motion; proposed orders; opposing points and authorities; a reply memorandum; page limitations; and oral hearings) apply to a motion to withdraw the reference.
- (3) DCt.LCvR 7(m) applies to nondispositive motions filed after the filing of the motion to withdraw the reference and relating thereto.
- (4) The motion to withdraw the reference (and any related motion seeking an order of the District Court), and any opposition thereto, must include a proposed order captioned for the District Court and complying with LCvR 7(k).

DCt.LBR 5011-4

TRANSMITTAL OF MOTION TO WITHDRAW THE REFERENCE TO THE DISTRICT COURT; DOCKETING OF THE MOTION IN THE DISTRICT COURT

The Clerk of the Bankruptcy Court must promptly transmit the motion to withdraw the reference to the Clerk of the District Court, who must docket the motion (1) as a miscellaneous matter under the title of the bankruptcy case and the title of any adversary proceeding, and (2) as assigned to the Chief Judge of the District Court (or the Chief Judge's designee) in accordance with DCt.LBR 5011-8(a), and who must give notice to the parties of the docketing of the miscellaneous matter.

DCt.LBR 5011-5

FILING OF FURTHER DOCUMENTS AFTER DOCKETING OF THE MOTION TO WITHDRAW THE REFERENCE

After the opening of a docket in the District Court for the motion to withdraw the reference, the parties must:

- (1) file with the Clerk of the District Court any further documents pertaining to the motion to withdraw the reference (other than those documents that these Rules contemplate will be addressed by the Clerk of the Bankruptcy Court or by the bankruptcy judge), captioning such documents for the District Court with the Miscellaneous Number indicated;
- (2) file with the Clerk of the Bankruptcy Court—unless and until the motion to withdraw the reference is granted—other documents relating to the matter for which withdrawal is sought.

DCt.LBR 5011-6

**OPPOSITION TO MOTION TO WITHDRAW
THE REFERENCE; REPLY TO OPPOSITION**

(a) OPPOSITION.

Any opposition to the motion to withdraw the reference must:

- (1) be served and filed with the Clerk of the District Court within 14 days after service of the motion to withdraw the reference;
- (2) include a separate list of any additional documents filed in the Bankruptcy Court that are relevant to the motion to withdraw the reference, including the date of filing, the document number, and the title of each such document; and
- (3) include the listed documents (other than documents that were filed under seal), attached to the list in chronological sequence, with each document to bear the Electronic Case Filing header showing the document number and date of filing in the Bankruptcy Court.

(b) REPLY TO OPPOSITION.

Any reply to the opposition to the motion to withdraw the reference must be served and filed with the Clerk of the District Court within 7 days after service of the opposition.

DCt.LBR 5011-7

TRANSCRIPT PERTINENT TO MOTION TO WITHDRAW THE REFERENCE

(a) ORDERING TRANSCRIPT.

If a party relies on a transcript of any proceeding not already on file, then by the date of that party's filing its motion or opposition, as the case may be, that party must deliver to the reporter, as defined in Bankruptcy Rule 8010(a)(1), and file with the Clerk of the Bankruptcy Court a written order for the transcript and make satisfactory arrangements

with the reporter for paying the cost of the transcript.

(b) REPORTER’S DUTIES; TRANSMITTAL OF TRANSCRIPT.

When a transcript has been ordered, the reporter is subject to the duties specified in Bankruptcy Rule 8010(a)(2). The party who seeks to rely on the transcript must:

- (1) file a copy with the party’s motion to withdraw the reference or the party’s opposition, as the case may be, or
- (2) if the transcript is not yet available, file a copy with the Clerk of the District Court, bearing a cover sheet with the District Court’s Miscellaneous Proceeding caption, within 7 days after the reporter files the transcript with the Clerk of the Bankruptcy Court.

(c) STATEMENT OF THE EVIDENCE WHEN A TRANSCRIPT IS UNAVAILABLE.

When a transcript is unavailable, the procedures of Bankruptcy Rule 8009(c) apply (with the words “appellant” and “appellee” changed to “party seeking withdrawal” and “opposing party,” respectively).

COMMENT TO DCt.LBR 5011-7: This DCt.LBR 5011-7 addresses the issue (which seldom arises) of making a transcript part of the documents to be considered by the District Court in addressing the motion to withdraw the reference.

DCt.LBR 5011-8

**PROCEEDINGS IN DISTRICT COURT ON
THE MOTION TO WITHDRAW THE REFERENCE**

(a) ASSIGNMENT OF MOTION.

The Clerk of the District Court must refer any motion to withdraw the reference—and any *sua sponte* request by the bankruptcy judge to withdraw the reference—to the Chief Judge or the Chief Judge’s designee for decision.

(b) OBTAINING BANKRUPTCY JUDGE’S VIEWS.

The bankruptcy judge may *sua sponte* submit a recommendation regarding the motion to withdraw the reference (or any related motion). Upon request of the District Court, the bankruptcy judge must submit a recommendation regarding the motion to withdraw the reference (or any related motion), including (if requested by the District Court):

- (1) stating the bankruptcy judge’s determination, pursuant to 28 U.S.C. § 157(b)(3), whether the proceeding, for which withdrawal of the reference is sought, is a core proceeding;
- (2) stating the bankruptcy judge’s view as to whether the proceeding, if a core proceeding, is one that the bankruptcy judge may constitutionally hear and determine; and
- (3) stating the Bankruptcy Court’s recommendation regarding whether withdrawal of the reference (or granting of the related motion) is warranted.

(c) DISPOSITION OF MOTION.

The District Court may, in its discretion, grant or deny the motion to withdraw the reference, in whole or in part.

(d) ASSIGNMENT OF WITHDRAWN MATTER.

Except as provided in DCt.LCvR 5011-1(d) (governing emergency matters deemed withdrawn when no bankruptcy judge is available), if a matter is withdrawn, the Clerk of the District Court must assign the matter to a District Judge in accordance with the District Court’s usual system for assigning civil actions, unless the Chief Judge determines that exceptional circumstances warrant special assignment to a particular District Judge.

(e) DISPOSITION OF WITHDRAWN MATTER.

After such withdrawal, the District Court may retain the entire matter withdrawn or may refer part or all of it back to the bankruptcy judge with or without instructions for further proceedings.

DCt.LBR 8004-1

INTERLOCUTORY APPEALS

(a) OBTAINING BANKRUPTCY JUDGE'S CERTIFICATION.

Whenever the bankruptcy judge has entered an interlocutory order, decree or judgment as to which a motion for leave to appeal has been filed pursuant to 28 U.S.C. § 158 and Bankruptcy Rule 8004, the bankruptcy judge shall, upon request of the District Court, submit to the District Court a written certification stating whether, in the bankruptcy judge's opinion, such order, decree or judgment involves a controlling question of law as to which there is substantial ground for difference of opinion and whether an immediate appeal from the order may materially advance the ultimate termination of the case.

(b) DISPOSITION.

The District Court may, in its discretion, grant or deny the motion for leave to appeal.

DCt.LBR 8009-1

**DISMISSAL OF APPEAL WHEN
AN APPELLANT FAILS TIMELY TO FILE A RULE 8009
DESIGNATION OF RECORD OR STATEMENT OF ISSUES ON APPEAL**

If an appellant fails timely to designate items to be included in the record on appeal or to file a statement of the issues to be presented, an appellee may move the District Court to dismiss the appeal—or the District Court, after notice and reasonable opportunity to respond, may dismiss the appeal on its own motion.

DCt.LBR 8010-1

TRANSCRIPT MADE PART OF THE RECORD ON APPEAL

When the Clerk of the Bankruptcy Court has transmitted the record on appeal or a notice that the record is available electronically, any transcript that is part of the record on appeal shall be accessible by a party in the District Court's or Bankruptcy Court's Case Management/Electronic Case Filing system, as the case may be, without any restriction to only

those parties who have purchased the transcript from the court reporter or court transcriber.

DCt.LBR 8018.1-1

**APPEALS IN WHICH THE
BANKRUPTCY JUDGE LACKED AUTHORITY TO
ISSUE THE JUDGMENT OR ORDER THAT IS ON APPEAL**

**(a) PRESERVING THE CONTENTION THAT BANKRUPTCY JUDGE LACKED
AUTHORITY TO ISSUE THE JUDGMENT OR ORDER THAT IS ON APPEAL.**

If:

- (1) the Bankruptcy Court has issued a judgment or order deciding a proceeding;
- (2) an appellant contends that the Bankruptcy Court lacked authority to issue the judgment or order deciding the proceeding; and
- (3) the appellant wishes to preserve that contention,

then, unless otherwise ordered by the District Court, the appellant must both appeal the Bankruptcy Court's order or judgment (to obtain an order vacating the order or judgment as unauthorized) and separately file in the Bankruptcy Court objections under Bankruptcy Rule 9033 to the Bankruptcy Court's findings of fact and conclusions of law as though they were proposed findings of fact and conclusions of law.

**(b) APPELLEE'S DUTY TO RESPOND TO THE BANKRUPTCY RULE 9033
OBJECTIONS.**

If an appellant files Bankruptcy Rule 9033 objections under paragraph (a) of this Rule, then unless otherwise ordered by the District Court, the appellee must, within the deadline set by Bankruptcy Rule 9033, respond to the Bankruptcy Rule 9033 objections as though the Bankruptcy Court's findings of fact and conclusions of law were proposed findings of fact and conclusions of law.

**(c) APPLICABILITY OF DCt.LBR 9033-1 TO BANKRUPTCY RULE 9033
OBJECTIONS FILED UNDER THIS RULE**

When an appellant files Bankruptcy Rule 9033 objections under paragraph (a) of this Rule, DCt.LBR 9033-1 applies to the objections as though the Bankruptcy Court's findings of fact and conclusions of law were proposed findings of fact and conclusions of law.

**(d) DISTRICT COURT'S DISPOSITION OF APPELLANT'S CONTENTION THAT
BANKRUPTCY JUDGE LACKED AUTHORITY TO ISSUE THE JUDGMENT
OR ORDER THAT IS ON APPEAL.**

If the District Court agrees with the appellant's contention that the Bankruptcy Court lacked authority to decide the proceeding, it may treat the Bankruptcy Court's findings of fact and conclusions of law as proposed findings of fact and conclusions of law, and it may proceed to make a de novo review under Bankruptcy Rule 9033(d).

COMMENT TO DCt.LBR 8018.1-1. This rule addresses filing Bankruptcy Rule 9033 objections when the Bankruptcy Court entered a judgment or order deciding a proceeding but lacked authority to decide the proceeding, either because the proceeding was a non-core proceeding or because it fell within that subset of core proceedings that, under Stern v. Marshall, 131 S. Ct. 2594 (2011), and Executive Benefits Ins. Agency v. Arkison, 134 S.Ct. 2165 (2014), may not be decided by a bankruptcy judge. Many other district courts follow a similar approach. See, e.g., Amended Standing Order of Reference, No. M10-468 (S.D.N.Y.).

DCt.LBR 8020-1

AWARD OF ATTORNEY'S FEES

(a) MOTION REQUIRED.

A claim for attorney's fees and related nontaxable expenses incurred in an appeal must be made by motion.

(b) MOTIONS FOR ATTORNEY'S FEES FOR MISCONDUCT IN APPEAL.

Motions seeking attorney's fees under Bankruptcy Rule 8020 for misconduct in the District Court must be filed in the District Court. DCt.LCv R 54.2 applies to the

determination of attorney's fees pursuant to a motion filed under Bankruptcy Rule 8020.

(c) MOTIONS FOR ATTORNEY'S FEES OTHER THAN UNDER BANKRUPTCY RULE 8020.

Except for motions under Fed. R. Bankr. P. 8020, a motion for recovery of attorney's fees incurred in an appeal:

- (1) is referred to the Bankruptcy Court by operation of DCt.LBR 5011-1 and must be filed with the Clerk of the Bankruptcy Court, with the motion bearing the caption of the Bankruptcy Court; and
- (2) unless a statute or order provides otherwise, the motion must be filed within 14 days after entry of the final judgment or order disposing of the appeal, and shall be disposed of in accordance with the LBRs of the Bankruptcy Court.

COMMENT TO DCt.LBR 8020-1: Bankruptcy Rule 8020 is not the exclusive basis for an award of attorney's fees incurred in an appeal: sometimes a statute authorizes a bankruptcy court that has dismissed a case or adversary proceeding to award attorney's fees (and nontaxable expenses) against the losing party. See, e.g., 11 U.S.C. §§ 303(i) and 523(d). Rule 8020-1(c) recognizes that motions to recover such attorney's fees, including those relating to the appeal, ordinarily should be heard in the Bankruptcy Court. When a party believes that the reference to the Bankruptcy Court of a motion to award attorney's fees incurred in the appeal should be withdrawn, the parties should comply with the DCt.LBRs governing withdrawal of the reference.

DCt.LBR 8021-1

MOTIONS RELATING TO TAXATION OF COSTS OF APPEAL

When a bill of costs is or may be filed under Bankruptcy Rule 8021(d), motions relating thereto (including any motion under Bankruptcy Rule 9006 to extend the Rule 8021(d) deadlines and any motion under Bankruptcy Rules 9023 or 9024 relating to the order ruling on the bill of costs) are referred to the Bankruptcy Court by operation of DCt.LBR 5011-1.

DCt.LBR 9015-1

JURY TRIALS IN BANKRUPTCY COURT

Pursuant to 28 U.S.C. § 157(e), the bankruptcy judges of this District are specially designated to conduct jury trials with the express consent of all the parties.

DCt.LBR 9027-1

REMOVAL

A notice of a removal under Bankruptcy Rule 9027 must be filed with the Clerk of the Bankruptcy Court, bear the caption of the Bankruptcy Court, and be docketed as an adversary proceeding. If a notice of removal is mistakenly captioned for the District Court, or submitted for filing with the Clerk as Clerk of the District Court, the Clerk, as Clerk of the Bankruptcy Court, must file the notice of removal in the Bankruptcy Court.

DCt.LBR 9029- 1

BANKRUPTCY COURT LOCAL RULES

The Bankruptcy Court is authorized to make and amend rules of practice and procedure to govern all cases, proceedings, and other matters in the Bankruptcy Court, subject to the limitations and requirements of Bankruptcy Rule 9029(a) (1). Such rules and amendments shall not be inconsistent with these District Court Local Bankruptcy Rules, and when proposed shall be transmitted to the Chief Judge of the District Court. The District Court may order that any proposed rule or amendment not take effect and may abrogate any such rule or amendment after it takes effect.

DCt.LBR 9029- 2

**DISTRICT COURT LOCAL CIVIL RULES APPLICABLE
TO BANKRUPTCY MATTERS IN THE DISTRICT COURT**

Except when a District Court Local Civil Rule would be inconsistent with a District Court Local Bankruptcy Rule, a Federal Rule of Bankruptcy Procedure, or a statutory provision, the District Court Local Civil Rules apply to any bankruptcy matter pending in the District Court, including

appeals, motions to withdraw the reference, *de novo* review proceedings, and proceedings for which the reference has been withdrawn.

DCt.LBR 9033-1

***DE NOVO* REVIEW**

(a) NOTIFICATION TO DISTRICT COURT THAT BANKRUPTCY RULE 9033(b) OBJECTIONS TO PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW HAVE BEEN FILED; DOCKETING OF THE SAME.

When a party files objections to proposed findings of fact and conclusions of law issued by the Bankruptcy Court:

- (1) the Clerk of the Bankruptcy Court must prepare and transmit a notice to the Clerk of the District Court attaching the objections, listing the parties and their attorneys' names and addresses (including e-mail addresses for purposes of e-notification), and stating that the record (including any responses to the objections) will be transmitted in due course; and
- (2) the Clerk of the District Court must docket the matter under the title of the bankruptcy case and the title of any adversary proceeding, identifying the party that filed the objections (and adding the name of that party to the title if necessary), assign the matter to a District Judge in accordance with the District Court's usual system for assigning civil actions, and give the parties notice of the assignment.

(b) FILING MEMORANDUM REPLYING TO RESPONSE TO OBJECTIONS.

Within 7 days after service of a response to objections filed under Bankruptcy Rule 9033(b), the party who filed the objections may file with the Clerk of the Bankruptcy Court and serve a memorandum in reply to the response.

(c) PROPOSED ORDER.

Objections, and responses thereto, filed under Bankruptcy Rule 9033(b) must include a proposed order captioned for the District Court and complying with DCt.LCvR 7(k).

(d) MOTIONS; FILING AND SERVICE; SIGNATURE; DISCLOSURE OF CORPORATE AFFILIATIONS AND FINANCIAL INTERESTS.

The following rules apply to a *de novo* review proceeding under Bankruptcy Rule 9033(b):

- (1) DCt.LCvR 7(m) (Duty to Confer on Nondispositive Motions);
- (2) Bankruptcy Rule 8011 (“Filing and Service; Signature”) (with the words “other parties to the appeal” in Bankruptcy Rule 8011(b) changed to “other parties to the *de novo* review proceeding”); and
- (3) Bankruptcy Rule 8012 (“Corporate Disclosure Statement”) (with “upon filing a motion, response, petition, or answer in the district court” in Bankruptcy Rule 8012 (b) changed to “upon filing a paper intended for the attention of the District Court”).

(e) STATEMENT OF POINTS AND AUTHORITIES.

Objections, and responses thereto, filed under Bankruptcy Rule 9033(b) must include or be accompanied by a statement of the specific points of law and authority that support the party’s position, including where appropriate a concise statement of facts. If a table of cases is provided, counsel must place asterisks in the margin to the left of those cases or authorities on which counsel chiefly relies.

(f) PAGE LIMITATIONS.

Without prior approval of the District Court, a party must not file a memorandum of points and authorities in support of objections filed under Bankruptcy Rule 9033(b), or filed in response to the objections, that exceeds 45 pages, or a reply memorandum that exceeds 25 pages.

(g) DESIGNATION OF RECORD.

- (1) *Objecting Party.* Within 14 days after filing the objections, the objecting party must serve and file a designation of relevant items to be included in the record for the District Court’s consideration.

- (2) *Responding Party.* Within 14 days after service of the objecting party's designation of record, any other party may serve and file a designation of additional items to be included in the record.
- (3) *Copies for the Clerk of the Bankruptcy Court.* If paper copies of any items are needed for the record, the party designating such items must provide a copy of any of those items that the Clerk of the Bankruptcy Court requests. If the party fails to do so, the Clerk of the Bankruptcy Court must prepare the copy at the party's expense.
- (4) *Transcript of Proceedings.* If the record designated by any party includes a transcript of any proceeding or a part thereof, then by the date of making that designation, that party must deliver to the reporter (designated on the Bankruptcy Court's website—or authorized by order or rule of the Bankruptcy Court—to prepare the transcript) and file with the Clerk of the Bankruptcy Court a written order for the transcript and make satisfactory arrangements with the reporter for paying the cost of the transcript. When a transcript is unavailable, the procedures of Bankruptcy Rule 8009(c) apply (with the words "appellant" and "appellee" changed to "objecting party" and "responding party," respectively).
- (5) *Other Necessary Actions.* All parties must take any other action necessary to enable the Clerk of the Bankruptcy Court to assemble and transmit the record.
- (6) *Agreed Statement as the Record.* The parties may submit an agreed statement of facts as a proposed record. If the statement is accurate, it—together with any additions that the Bankruptcy Court may consider necessary to a full presentation of the issues—must be approved by the bankruptcy judge and then certified as the record, and it shall constitute the record unless the District Judge undertaking *de novo* review directs otherwise.
- (7) *Unsupported Finding or Conclusion.* If an objecting party intends to argue that a proposed finding or conclusion is unsupported by the evidence or is contrary to the evidence, that party must include in the record a transcript of all relevant testimony and copies of all relevant exhibits.
- (8) *Bankruptcy Court.* The Bankruptcy Court may file a statement designating items that it believes support its proposed findings of fact and conclusions of law and that it recommends that the District Court direct be included in the record.

(h) RECORD TO BE TRANSMITTED.

The record must include the following:

- items designated by the parties;
- the proposed findings of fact and conclusions of law, the objections thereto, any responses, and any reply;
- any transcript ordered;
- any statement of the Bankruptcy Court under paragraph (g)(8) of this rule; and
- any additional items that the District Court orders to be included.

(i) TRANSMITTAL OF RECORD TO DISTRICT COURT.

When the record is complete for purposes of transmittal, but without awaiting the filing of any transcripts, the Clerk of the Bankruptcy Court must transmit to the Clerk of the District Court :

- (1) the proposed findings of fact and conclusions of law, the objections thereto, any responses, and any reply; and
- (2) a notice that the record (except for any records under seal governed by DCt.LBR 5005-1) is available electronically.

(j) DISTRICT COURT MAY REQUEST PAPER COPIES OF RECORD.

The District Court may require that a paper copy of some or all of the record be furnished, in which case the Clerk of the District Court will direct the movant to provide the copies. If the movant fails to provide them, the Clerk of the Bankruptcy Court must prepare the copies at the movant's expense.

(k) PROCEEDINGS IN DISTRICT COURT.

After the record has been transmitted to the District Court, documents pertaining to the objections must be filed with the Clerk of the District Court.

(l) OBJECTIONS UNDER BANKRUPTCY RULE 9033 WHEN THE BANKRUPTCY JUDGE, WITHOUT AUTHORITY, ISSUED AN ORDER OR JUDGMENT DECIDING A PROCEEDING.

If the Bankruptcy Court has issued a judgment or order deciding a proceeding and a party contends that the Bankruptcy Court lacked authority to issue the judgment or order, then DCt.LBR 8018.1-1 governs the requirement of filing of objections under Bankruptcy Rule 9033 to the Bankruptcy Court's findings of fact and conclusions of law as though they were proposed findings of fact and conclusions of law.

COMMENT TO DCt.LBR 9033-1:

Paragraph (a) is modeled on Bankruptcy Rule 8003(d), and requires immediate transmission of the objections to the District Court, and the docketing of them as a civil action, with the record to follow later.

Paragraphs (c), (e), and (f) are modeled on LCvR 7.

Paragraph (g)(7) is modeled on Bankruptcy Rule 8009(b)(5).

The objections papers filed in the Bankruptcy Court for the District Court's eventual attention should bear the caption of the Bankruptcy Court except that proposed orders intended for entry by the District Court should bear the caption of the District Court, bear a signature line for a United States District Judge, and, when a docket has not yet been opened in the District Court, leave the Civil Action Number blank.

[End of Appendix A]

APPENDIX B

RED-LINE COMPARISON TO EXISTING DISTRICT COURT LOCAL BANKRUPTCY RULES

ADMINISTRATION OF THE BANKRUPTCY SYSTEM¹

DCt.LBR 5005-1

MAKING DOCUMENTS FILED UNDER SEAL IN THE BANKRUPTCY COURT PART OF THE RECORD IN THE DISTRICT COURT

When a party wishes a document placed under seal by the Bankruptcy Court to be part of the record considered by the District Court in ruling on (1) a motion to withdraw the reference under DCt.LBR 5011-2; or (2) a de novo review under DCt.LBR 9033-1; or (3) any other non-appellate matter, the party must:

(1) identify the document, without revealing confidential or secret information, as being part of the record the party wishes the District Court to consider; and

(2) file a motion with the District Court to accept the document under seal.

If the motion is granted, the movant must notify the Bankruptcy Court of the ruling, and the Clerk of the Bankruptcy Court must promptly transmit the sealed document to the Clerk of the District Court.

COMMENT TO DCt.LBR 5005-1: This rule is modeled on the similar rule in Bankruptcy Rule 8009(f), which governs the designation of sealed documents as part of the record on an appeal. DCt.LCvR 5.1(h) governs the sealing of documents in the District Court.

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DCt.LBR 5011-1

REFERENCE TO BANKRUPTCY ~~JUDGE~~JUDGES

(a) GENERAL.

Pursuant to 28 U.S.C. § 157(a), all cases under Title 11 and all proceedings arising under Title 11 or arising in or related to a case under Title 11 are referred to the bankruptcy judges of this District. ~~All papers~~

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~~Rules 5011-1 – 9033-1 deal with the interrelationship of DCt.LBRs 5005-1 through 9033-1 supplement the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and deal with the matters (references, de novo reviews, appeals, etc.) governing the relationship between the United States District Court and the United States Bankruptcy Court. The United States Bankruptcy Court has its own local rules governing procedures within that court. Those local rules, which were last revised on January 1, 1997, remain in effect.~~

(b) REFERRAL INCLUDES ANY CIVIL ACTION REMOVED ON THE BASIS THAT THE DISTRICT COURT HAS JURISDICTION OVER THE CIVIL ACTION UNDER 28 U.S.C. § 1334.

The referral pursuant to paragraph (a) of proceedings to the bankruptcy judges of this District includes any civil action (or claim or cause of action in a civil action) removed on the basis that the District Court has jurisdiction over the civil action under 28 U.S.C. § 1334. DCt.LBR 9027-1 governs such removal.

(c) FILING OF DOCUMENTS IN A REFERRED CASE OR PROCEEDING.

Except as otherwise provided in DCt.LBR 5011-5, and in the Bankruptcy Rules relating to appeals, all documents filed in any such referred case or proceeding, including the original bankruptcy petition, shall must be filed with the Clerk of the Bankruptcy Court and shall must be captioned "United United States Bankruptcy Court for the District of Columbia."

~~DCt.LBR 5011-2~~

WITHDRAWAL OF REFERENCE

~~(a) FORM OF REQUEST; PLACE FOR FILING.~~

~~A request for withdrawal in whole or in part of the reference of a case or proceeding referred to the bankruptcy judge, other than a sua sponte request by the bankruptcy judge, shall be by motion filed timely with the Clerk of the Bankruptcy Court. All such motions shall conform to Local Rule LCvR-7 of the Local Rules of this Court. In addition, all such motions shall clearly and conspicuously state that "RELIEF IS SOUGHT FROM A UNITED STATES DISTRICT JUDGE."~~

~~(b) TIME FOR FILING.~~

~~Except as provided below as to adversary proceedings and contested matters, motion to withdraw the reference of a whole bankruptcy case or any part of a bankruptcy case shall be served and filed at or before the time first scheduled for the meeting of creditors held pursuant to 11 U.S.C. § 341(a). Except as provided below as to contested matters, a motion to withdraw the reference of a whole adversary proceeding or any part of an adversary proceeding shall be (c) served and filed on or before the date on which an answer, reply or motion under Bankruptcy Rule 7012 or 7015 is first due. A motion to withdraw the reference of a contested matter within a case shall be served and filed not later than 14 days after service of the motion, application or objection which initiates the contested matter. Notwithstanding the foregoing, a motion to withdraw the reference may be served and filed not later than 14 days after service of any timely filed~~

pleading or paper in which the basis for the motion first arises.

~~(c) STAY.~~

~~The filing of a motion to withdraw the reference does not stay proceedings in²~~

(d) EMERGENCY MATTERS WHEN NO BANKRUPTCY JUDGE IS AVAILABLE.

~~When the Bankruptcy Court. The procedures relating to stay shall be the same as set forth in Bankruptcy Rule 8005.~~

~~i. DESIGNATION OF RECORD.~~

~~The moving party shall serve and file, together with the motion to withdraw the reference, a designation of those portions of the record of the proceedings or Clerk thereof files a notice in the Bankruptcy Court that the moving party believes will reasonably be necessary or pertinent to the District Court's consideration of the motion. Within 14 days after service of such designation of record, any other party may serve and file a designation of additional portions of the record. If the record designated by any party includes a transcript of any proceeding or a part thereof, that party shall immediately after filing the designation deliver to the reporter and file with no bankruptcy judge is available to hear an emergency matter that requires immediate action, the reference to the Bankruptcy Court of the emergency matter is deemed withdrawn, and:~~

~~(1) the Clerk of the Bankruptcy Court a written request for the transcript and make satisfactory arrangements for payment of its cost. All parties shall take any other action necessary to enable the Clerk to assemble and transmit the record. The parties shall submit only that part or parts of a transcript of proceedings relevant to the issues raised on the motion for withdrawal of reference. If the issues involve only questions of law, the parties may submit an agreed statement of facts or such part or parts of the records as are relevant to such questions of law, unless the District Judge considering the motion directs otherwise.~~

~~ii. RESPONSES TO MOTIONS TO WITHDRAW THE REFERENCE; REPLY.~~

~~Opposing parties shall file with the Clerk of the Bankruptcy Court, and serve on all parties to the matter as to which withdrawal of the reference has been requested, their written responses to the motion to withdraw the reference, within 14 days after being served a copy of the motion. The moving party may serve and file a reply within 14 days after service of a response.~~

~~iii. TRANSMITTAL TO AND PROCEEDINGS IN DISTRICT COURT.~~

~~When the record is complete for the purpose of transmittal, but without awaiting the filing of any transcripts, the Clerk of the Bankruptcy Court shall promptly transmit~~must transmit copies of the notice and the papers relating to the emergency matter to the Clerk of the District Court ~~the motion papers and the portions of the record designated. After the opening of a docket in the District Court, documents pertaining to the matter under review by~~who must docket the emergency matter (1) as a miscellaneous matter, under the title of the bankruptcy case and the title of any adversary proceeding in which the emergency matter has arisen, and (2) as assigned to the Motions Judge under DCt.LCvR 40.8(b)(2);

- ~~(2) the Clerk of the District Court shall~~must give notice to the parties that the emergency matter has been withdrawn and that, unless otherwise ordered, further papers relating to the emergency matter must be filed with the Clerk of the District Court bearing the Miscellaneous Number assigned to the withdrawn emergency matter;
- ~~(3) if the Motions Judge determines that there is no emergency requiring action on the matter (or part thereof) before a bankruptcy judge is available, the Motions Judge may enter an order declining to decide the matter (or part thereof) and terminate the withdrawal of the matter or part thereof, as the case may be;~~
- ~~(4) the Motions Judge shall otherwise decide the emergency matter, but all documents relating to other matters in~~any subsequent motion related to the Motions Judge's order disposing of the emergency matter must be filed in the Bankruptcy Court and handled by a bankruptcy judge, if available, unless the Motions Judge who heard the emergency matter:
- in the order disposing of the emergency matter or a subsequent order issued on the Motions Judge's own initiative; or
 - on motion of a party filed in the District Court in the miscellaneous matter; or
 - upon a recommendation of the bankruptcy case or adversary proceeding or contested matter shall continue to be filed with judge transmitted to the same Motions Judge who heard the emergency matter,

~~orders for cause that the same Motions Judge will handle the subsequent motion, in which event the reference of the subsequent motion will be deemed withdrawn for disposition in the miscellaneous matter, and the Clerk of the Bankruptcy Court. Any motion and any sua sponte request by the bankruptcy judge to withdraw the reference shall be referred to the Chief Judge or the Chief Judge's designee for decision, but if the matter is withdrawn it shall be assigned to a~~

~~District Judge in accordance with this court's usual system for assigning civil cases, unless the Chief Judge determines that exceptional circumstances warrant special assignment to a District Judge. Upon request of this Court, the bankruptcy judge shall determine, pursuant to 28 U.S.C. § 157(b)(3), whether or not any proceeding, as to which withdrawal of the reference is sought in whole or in part, is a core proceeding. This Court may, in its discretion, grant or deny the motion to withdraw the reference, in whole or in part. After such withdrawal, this Court may retain the entire matter withdrawn or may refer part or all of it back must transmit to the Clerk of the District Court for docketing under the Miscellaneous Number the papers relating to the subsequent motion.~~

COMMENT TO DCt.LBR 5011-1: Paragraph (a)'s reference to "bankruptcy judges" includes, in addition to the bankruptcy judge with or without instructions for further proceedings.

DCt.LBR 8003-1

INTERLOCUTORY APPEALS

~~Whenever the appointed for this district under 28 U.S.C. § 152(a)(1), any retired bankruptcy judge recalled under 28 U.S.C. §§ 155(b) or 375, and any bankruptcy judge sitting by designation under 28 U.S.C. § 155(a).~~

~~Paragraph (b) clarifies that civil actions removed under 28 U.S.C. § 1452(a) (or under the more general removal provision of 28 U.S.C. § 1441(a)) on the basis that the District Court has jurisdiction over the civil action pursuant to the bankruptcy jurisdiction statute, 28 U.S.C. § 1334, are referred to the Bankruptcy Court. Pursuant to paragraph (c) and DCt.LBR 9027-1, the notice of removal of such a civil action must be captioned for the Bankruptcy Court.~~

~~Paragraph (d) provides for deemed withdrawal of emergency matters for which a bankruptcy judge is unavailable, thereby avoiding the necessity of a motion to withdraw the reference; provides for the Motions Judge to hear the emergency matter; and addresses the extent of that Motions Judge's hearing any proceeding related to the Motions Judge's disposition of the emergency matter (such as a motion for reconsideration).~~

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DCt.LBR 5011-2

PLACE AND TIME FOR FILING MOTION TO WITHDRAW THE REFERENCE; CONTENTS OF MOTION

(a) FILING OF MOTION TO WITHDRAW THE REFERENCE

A motion for withdrawal in whole or in part of the reference of a case or proceeding referred to a bankruptcy judge must bear the caption of the Bankruptcy Court, and be filed with the Clerk of the Bankruptcy Court, accompanied by the required filing fee.

and the movant's designation of the record. The bankruptcy judge has entered an interlocutory order, decree or judgment as to which a motion for leave to appeal has been filed pursuant to 28 U.S.C. § 158 and Rule 8003 may sua sponte file, and have the Clerk of the Bankruptcy Rules, Court transmit, a request to withdraw the reference.

(b) TIME FOR FILING OF MOTION TO WITHDRAW THE REFERENCE OF BANKRUPTCY CASE.

A motion to withdraw the reference of the bankruptcy judge shall, upon request of this Court, submit to this Court a written certification stating whether, in case or a part thereof (as opposed to a specific proceeding within the bankruptcy judge's opinion, such order, decree or judgment involves a controlling question of law as to which there is substantial ground for difference of opinion and whether an immediate appeal from the order may materially advance the ultimate termination case) must be filed and served on or before 21 days after the first date scheduled for the meeting of creditors held pursuant to 11 U.S.C. § 341(a), or, if later, within 35 days of service of the paper giving rise to the basis for the motion to withdraw the reference.

(c) TIME FOR FILING OF MOTION TO WITHDRAW THE REFERENCE OF A PROCEEDING WITHIN THE BANKRUPTCY CASE.

A motion to withdraw the reference of a proceeding within the bankruptcy case (including an adversary proceeding, or contested matter, or any other matter seeking entry of an order), or a part of the proceeding, must be served and filed within 35 days of service of the paper giving rise to the basis for the motion to withdraw the reference.

(d) CONTENTS OF MOTION.

A motion for withdrawal of the reference must include the following:

- (1) a specification of the case. This Court may thereupon, in its discretion, grant or deny or proceedings to be withdrawn;
- (2) the facts necessary to understand the grounds presented in support of the requested withdrawal of the reference;
- (3) the reasons why the withdrawal of the reference should be granted;
- (4) a copy of the docket sheet of the case or proceeding for which withdrawal of the reference is requested;

- (5) a separate list of any documents filed in the Bankruptcy Court that are relevant to the motion for ~~leave to appeal~~.

~~DCt.LBR 8006-1~~

~~FAILURE TO DESIGNATE RECORD OR ISSUES~~

~~— If, after an appeal to withdrawal of the reference, including the date of filing, the document number, and the title of each such document; and~~

- (6) copies of the listed relevant documents (other than documents that were filed under seal), appended to the list in chronological sequence, with each document to bear the Electronic Case Filing header showing the document number and date of filing in the Bankruptcy Court .

COMMENT TO DCt.LBR 5011-2: This Rule and Rule 5011-6 provide for relevant documents that were filed in the Bankruptcy Court to be appended to lists submitted with the motion and the opposition. That eliminates the cumbersome procedures that a designation of the record and transmittal of the record by the Clerk of the Bankruptcy Court would entail. DCt.LBR 5011-7 addresses making a transcript part of the record when that transcript is not yet available to be appended to the motion to withdraw the reference or to the opposition, as the case may be.

DCt.LBR 5011-3

APPLICABILITY, WHEN A MOTION TO WITHDRAW THE
REFERENCE HAS BEEN FILED, OF DISTRICT COURT LOCAL CIVIL
RULES TO DOCUMENTS INTENDED FOR DISTRICT COURT

By reason of DCt.LBR 9029-2:

- (1) DCt.LCvR 5.1 (Form and Filing of Documents) applies to the motion to withdraw the reference, the opposition thereto, any reply, and any further filings.
- (2) DCt.LCvR 7 paragraphs (a) through (f) (setting forth requirements governing the statement of point and authorities in support of a motion; proposed orders; opposing points and authorities; a reply memorandum; page limitations; and oral hearings) apply to a motion to withdraw the reference.

- (3) DCt.LCvR 7(m) applies to nondispositive motions filed after the filing of the motion to withdraw the reference and relating thereto.
- (4) The motion to withdraw the reference (and any related motion seeking an order of the District Court), and any opposition thereto, must include a proposed order captioned for the District Court and complying with LCvR 7(k).

DCt.LBR 5011-4

TRANSMITTAL OF MOTION TO WITHDRAW THE REFERENCE TO THE DISTRICT COURT; DOCKETING OF THE MOTION IN THE DISTRICT COURT

The Clerk of the Bankruptcy Court must promptly transmit the motion to withdraw the reference to the Clerk of the District Court, who must docket the motion (1) as a miscellaneous matter under the title of the bankruptcy case and the title of any adversary proceeding, and (2) as assigned to the Chief Judge of the District Court (or the Chief Judge's designee) in accordance with DCt.LBR 5011-8(a), and who must give notice to the parties of the docketing of the miscellaneous matter.

DCt.LBR 5011-5

FILING OF FURTHER DOCUMENTS AFTER DOCKETING OF THE MOTION TO WITHDRAW THE REFERENCE

After the opening of a docket in the District Court for the motion to withdraw the reference, the parties must:

- (1) file with the Clerk of the District Court any further documents pertaining to the motion to withdraw the reference (other than those documents that these Rules contemplate will be addressed by the Clerk of the Bankruptcy Court or by the bankruptcy judge), captioning such documents for the District Court with the Miscellaneous Number indicated;
- (2) file with the Clerk of the Bankruptcy Court—unless and until the motion to withdraw the reference is granted—other documents relating to the matter for which withdrawal is sought.

DCt.LBR 5011-6

**OPPOSITION TO MOTION TO WITHDRAW
THE REFERENCE; REPLY TO OPPOSITION**

(a) OPPOSITION.

Any opposition to the motion to withdraw the reference must:

- (1) be served and filed with the Clerk of the District Court within 14 days after service of the motion to withdraw the reference;
- (2) include a separate list of any additional documents filed in the Bankruptcy Court that are relevant to the motion to withdraw the reference, including the date of filing, the document number, and the title of each such document; and
- (3) include the listed documents (other than documents that were filed under seal), attached to the list in chronological sequence, with each document to bear the Electronic Case Filing header showing the document number and date of filing in the Bankruptcy Court.

(b) REPLY TO OPPOSITION.

Any reply to the opposition to the motion to withdraw the reference must be served and filed with the Clerk of the District Court within 7 days after service of the opposition.

DCt.LBR 5011-7

TRANSCRIPT PERTINENT TO MOTION TO WITHDRAW THE REFERENCE

(a) ORDERING TRANSCRIPT.

If a party relies on a transcript of any proceeding not already on file, then by the date of that party's filing its motion or opposition, as the case may be, that party must deliver to the reporter, as defined in Bankruptcy Rule 8010(a)(1), and file with the Clerk of the Bankruptcy Court a written order for the transcript and make satisfactory arrangements with the reporter for paying the cost of the transcript.

(b) REPORTER’S DUTIES; TRANSMITTAL OF TRANSCRIPT.

When a transcript has been noted, the appellant fails to designate the contents of the record on appeal or to file a statement of the issues to be presented on appeal within the time required by ordered, the reporter is subject to the duties specified in Bankruptcy Rule 8010(a)(2). The party who seeks to rely on the transcript must:

- (1) file a copy with the party’s motion to withdraw the reference or the party’s opposition, as the case may be, or
- (2) if the transcript is not yet available, file a copy with the Clerk of the District Court, bearing a cover sheet with the District Court’s Miscellaneous Proceeding caption, within 7 days after the reporter files the transcript with the Clerk of the Bankruptcy Court.

(c) STATEMENT OF THE EVIDENCE WHEN A TRANSCRIPT IS UNAVAILABLE.

When a transcript is unavailable, the procedures of Bankruptcy Rule 8009(c) apply (with the words “appellant” and “appellee” changed to “party seeking withdrawal” and “opposing party,” respectively).

COMMENT TO DCt.LBR 5011-7: This DCt.LBR 5011-7 addresses the issue (which seldom arises) of making a transcript part of the documents to be considered by the District Court in addressing the motion to withdraw the reference.

DCt.LBR 5011-8

**PROCEEDINGS IN DISTRICT COURT ON
THE MOTION TO WITHDRAW THE REFERENCE**

(a) ASSIGNMENT OF MOTION.

The Clerk of the District Court must refer any motion to withdraw the reference—and any sua sponte request by the bankruptcy judge to withdraw the reference—to the Chief Judge or the Chief Judge’s designee for decision.

(b) OBTAINING BANKRUPTCY JUDGE'S VIEWS.

The bankruptcy judge may sua sponte submit a recommendation regarding the motion to withdraw the reference (or any related motion). Upon request of the District Court, the bankruptcy judge must submit a recommendation regarding the motion to withdraw the reference (or any related motion), including (if requested by the District Court):

- (1) stating the bankruptcy judge's determination, pursuant to 28 U.S.C. § 157(b)(3), whether the proceeding, for which withdrawal of the reference is sought, is a core proceeding;
- (2) stating the bankruptcy judge's view as to whether the proceeding, if a core proceeding, is one that the bankruptcy judge may constitutionally hear and determine; and
- (3) stating the Bankruptcy Court's recommendation regarding whether withdrawal of the reference (or granting of the related motion) is warranted.

(c) DISPOSITION OF MOTION.

The District Court may, in its discretion, grant or deny the motion to withdraw the reference, in whole or in part.

(d) ASSIGNMENT OF WITHDRAWN MATTER.

Except as provided in DCt.LCvR 5011-1(d) (governing emergency matters deemed withdrawn when no bankruptcy judge is available), if a matter is withdrawn, the Clerk of the District Court must assign the matter to a District Judge in accordance with the District Court's usual system for assigning civil actions, unless the Chief Judge determines that exceptional circumstances warrant special assignment to a particular District Judge.

(e) DISPOSITION OF WITHDRAWN MATTER.

After such withdrawal, the District Court may retain the entire matter withdrawn or may refer part or all of it back to the bankruptcy judge with or without instructions for further proceedings.

DCt.LBR 8004-1

INTERLOCUTORY APPEALS

(a) OBTAINING BANKRUPTCY JUDGE'S CERTIFICATION.

Whenever the bankruptcy judge has entered an interlocutory order, decree or judgment as to which a motion for leave to appeal has been filed pursuant to 28 U.S.C. § 158 and Bankruptcy Rule 8006⁴, the Clerk of the bankruptcy Court shall forward forthwith to the Clerk of the District Court a partial record consisting of a copy of the order or judgment appealed from, the notice of appeal, a copy of the docket entries and any other part of the record that the Clerk of the Bankruptcy Court deems appropriate. On judge shall, upon request of the District Court, the Clerk of the Bankruptcy Court shall in addition transmit any other part of the record to the Clerk of submit to the District Court. a written certification stating whether, in the bankruptcy judge's opinion, such order, decree or judgment involves a controlling question of law as to which there is substantial ground for difference of opinion and whether an immediate appeal from the order may materially advance the ultimate termination of the case.

(b) DISPOSITION.

The District Court may, upon motion of the appellee filed in the office of the Clerk of the District Court, or upon its own order, dismiss the appeal for failure to comply with Bankruptcy Rule 8006:

DCt.LBR 8007-1

RETENTION OF RECORD IN BANKRUPTCY COURT

— Unless the District Court or the Bankruptcy Court otherwise orders in any particular case, in its discretion, grant or deny the motion for leave to appeal.

DCt.LBR 8009-1

DISMISSAL OF APPEAL WHEN
AN APPELLANT FAILS TIMELY TO FILE A RULE 8009
DESIGNATION OF RECORD OR STATEMENT OF ISSUES ON APPEAL

~~If an appellant fails timely to designate items to be included in the record on appeal as designated pursuant to Bankruptcy Rule 8006 shall be retained by the Clerk of the Bankruptcy Court until such time as it is requested by the District Judge to whom the appeal is assigned.~~

~~DCt.LBR 8009-1~~

~~FAILURE TO FILE BRIEF~~

~~If, after an appeal has been noted and the appellant has complied with Bankruptcy Rule 8006, the appellant fails to serve and file a brief within the time required by Bankruptcy Rule 8009, or to file a statement of the issues to be presented, an appellee may move the District Court to dismiss the appeal—or the District Court, after notice and reasonable opportunity to respond, may dismiss the appeal on its own motion.~~

DCt.LBR 8010-1

TRANSCRIPT MADE PART OF THE RECORD ON APPEAL

When the Clerk of the Bankruptcy Court has transmitted the record on appeal or a notice that the record is available electronically, any transcript that is part of the record on appeal shall be accessible by a party in the District Court may, upon motion of the appellee filed in the office of the Clerk of Court's or Bankruptcy Court's Case Management/Electronic Case Filing system, as the case may be, without any restriction to only those parties who have purchased the transcript from the court reporter or court transcriber.

DCt.LBR 8018.1-1

APPEALS IN WHICH THE
BANKRUPTCY JUDGE LACKED AUTHORITY TO
ISSUE THE JUDGMENT OR ORDER THAT IS ON APPEAL

(a) PRESERVING THE CONTENTION THAT BANKRUPTCY JUDGE LACKED

AUTHORITY TO ISSUE THE JUDGMENT OR ORDER THAT IS ON APPEAL.

If:

- (1) the Bankruptcy Court has issued a judgment or order deciding a proceeding;
- (2) an appellant contends that the Bankruptcy Court lacked authority to issue the judgment or order deciding the proceeding; and
- (3) the appellant wishes to preserve that contention,

then, unless otherwise ordered by the District Court, or upon its own order, dismiss the appeal for failure to comply with the appellant must both appeal the Bankruptcy Court's order or judgment (to obtain an order vacating the order or judgment as unauthorized) and separately file in the Bankruptcy Court objections under Bankruptcy Rule 8009:

DCt.LBR 9033-1

DE NOVO REVIEW

(a) FORM OF REQUEST; TIME AND PLACE FOR FILING.

Pursuant to 28 U.S.C. § 157(c)(1), any party may request *de novo* review of 9033 to the Bankruptcy Court's findings of fact and conclusions of law as though they were proposed findings of fact and conclusions of law and a proposed final order or judgment by the.

(b) APPELLEE'S DUTY TO RESPOND TO THE BANKRUPTCY RULE 9033 OBJECTIONS.

If an appellant files Bankruptcy Rule 9033 objections under paragraph (a) of this Rule, then unless otherwise ordered by the District Court, the appellee must, within the deadline set by Bankruptcy Rule 9033, respond to the Bankruptcy Rule 9033 objections as though the Bankruptcy Court's findings of fact and conclusions of law were proposed findings of fact and conclusions of law.

(c) APPLICABILITY OF DCt.LBR 9033-1 TO BANKRUPTCY RULE 9033 OBJECTIONS FILED UNDER THIS RULE

When an appellant files Bankruptcy Rule 9033 objections under paragraph (a) of this Rule, DCt.LBR 9033-1 applies to the objections as though the Bankruptcy Court's findings of fact and conclusions of law were proposed findings of fact and conclusions of law.

(d) DISTRICT COURT'S DISPOSITION OF APPELLANT'S CONTENTION THAT BANKRUPTCY JUDGE LACKED AUTHORITY TO ISSUE THE JUDGMENT OR ORDER THAT IS ON APPEAL.

If the District Court agrees with the appellant's contention that the Bankruptcy Court lacked authority to decide the proceeding, it may treat the Bankruptcy Court's findings of fact and conclusions of law as proposed findings of fact and conclusions of law, and it may proceed to make a de novo review under Bankruptcy Rule 9033(d).

COMMENT TO DCt.LBR 8018.1-1. This rule addresses filing Bankruptcy Rule 9033 objections when the Bankruptcy Court entered a judgment or order deciding a proceeding but lacked authority to decide the proceeding, either because the proceeding was a non-core proceeding or because it fell within that subset of core proceedings that, under Stern v. Marshall, 131 S. Ct. 2594 (2011), and Executive Benefits Ins. Agency v. Arkison, 134 S.Ct. 2165 (2014), may not be decided by a bankruptcy judge by filing. Many other district courts follow a similar approach. See, e.g., Amended Standing Order of Reference, No. M10-468 (S.D.N.Y.).

DCt.LBR 8020-1

AWARD OF ATTORNEY'S FEES

(a) MOTION REQUIRED.

A claim for attorney's fees and related nontaxable expenses incurred in an appeal must be made by motion.

(b) MOTIONS FOR ATTORNEY'S FEES FOR MISCONDUCT IN APPEAL.

Motions seeking attorney's fees under Bankruptcy Rule 8020 for misconduct in the District Court must be filed in the District Court. DCt.LCv R 54.2 applies to the determination of attorney's fees pursuant to a motion filed under Bankruptcy Rule 8020.

(c) MOTIONS FOR ATTORNEY'S FEES OTHER THAN UNDER BANKRUPTCY RULE 8020.

Except for motions under Fed. R. Bankr. P. 8020, a motion for recovery of attorney's fees incurred in an appeal:

(1) is referred to the Bankruptcy Court by operation of DCt.LBR 5011-1 and must be filed with the Clerk of the Bankruptcy Court, and serving on all parties to the matter under review within 14 days after service of a copy of such proposed findings, conclusions and order or judgment, written objections which shall specifically identify the portions of the proposed findings, conclusions, and order or judgment to which objection is made and the basis for such objection. All such objections shall conform to Local Rule 7.1 of the Local Rules of this Court and in addition shall clearly and conspicuously state that "RELIEF IS SOUGHT FROM A UNITED STATES DISTRICT JUDGE."

~~(b) DESIGNATION OF RECORD; RESPONSE TO OBJECTIONS; REPLY; TRANSMITTAL TO AND PROCEEDINGS IN DISTRICT COURT.~~

~~The procedures for designation of record, responses to objections, reply, and transmittal to and proceedings in the District Court shall be the same as set forth in Rule 5011-2 but the matter under review shall be assigned to a District Judge in accordance with this Court's usual system for assigning civil cases.~~

~~(c) DE NOVO CONSIDERATION BY DISTRICT JUDGE.~~

~~A District Judge shall make a *de novo* determination of those portions of the bankruptcy judge's proposed findings, conclusions, and order or judgment to which objection is made and may accept, reject, or modify, in whole or in part, the proposed findings, conclusions, and order or judgment by the bankruptcy judge. The District Judge, however, need not normally conduct a new hearing and may consider the record developed before the bankruptcy judge and may make a determination on the basis of that record. The District Judge may also receive further evidence, recall witnesses or re-refer the matter to the bankruptcy judge with instructions.~~

~~(d) EFFECT OF FAILURE TO OBJECT.~~

~~Failure to file a timely objection to the bankruptcy judge's proposed findings, conclusions and order or judgment shall constitute consent to determination of the proceeding by the bankruptcy judge, pursuant to 28 U.S.C. § 157(c)(2); in such event the proposed findings, conclusion and order or judgment shall become the findings, conclusions and order or~~

judgment of with the motion bearing the caption of the Bankruptcy Court
as of the date of their original entry.

; and

- (2) unless a statute or order provides otherwise, the motion must be filed within 14 days after entry of the final judgment or order disposing of the appeal, and shall be disposed of in accordance with the LBRs of the Bankruptcy Court.

COMMENT TO DCt.LBR 8020-1: Bankruptcy Rule 8020 is not the exclusive basis for an award of attorney's fees incurred in an appeal: sometimes a statute authorizes a bankruptcy court that has dismissed a case or adversary proceeding to award attorney's fees (and nontaxable expenses) against the losing party. See, e.g., 11 U.S.C. §§ 303(i) and 523(d). Rule

8020-1(c) recognizes that motions to recover such attorney's fees, including those relating to the appeal, ordinarily should be heard in the Bankruptcy Court. When a party believes that the reference to the Bankruptcy Court of a motion to award attorney's fees incurred in the appeal should be withdrawn, the parties should comply with the DCt.LBRs governing withdrawal of the reference.

DCt.LBR 8021-1

MOTIONS RELATING TO TAXATION OF COSTS OF APPEAL

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When a bill of costs is or may be filed under Bankruptcy Rule 8021(d), motions relating thereto (including any motion under Bankruptcy Rule 9006 to extend the Rule 8021(d) deadlines and any motion under Bankruptcy Rules 9023 or 9024 relating to the order ruling on the bill of costs) are referred to the Bankruptcy Court by operation of DCt.LBR 5011-1.

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DCt.LBR 9015-1

JURY TRIALS IN BANKRUPTCY COURT

Pursuant to 28 U.S.C. § 157(e), the bankruptcy judges of this District are specially designated to conduct jury trials with the express consent of all the parties.

DCt.LBR 9027-1

REMOVAL

A notice of a removal under Bankruptcy Rule 9027 must be filed with the Clerk of the Bankruptcy Court, bear the caption of the Bankruptcy Court, and be docketed as an adversary proceeding. If a notice of removal is mistakenly captioned for the District Court, or submitted for filing with the Clerk as Clerk of the District Court, the Clerk, as Clerk of the Bankruptcy Court, must file the notice of removal in the Bankruptcy Court.

DCt.LBR 9029- 1

BANKRUPTCY COURT LOCAL RULES

The Bankruptcy Court is authorized to make and amend rules of practice and procedure to govern all cases, proceedings, and other matters in the Bankruptcy Court, subject to the limitations and requirements of Bankruptcy Rule 9029(a) (1). Such rules and amendments shall not be inconsistent with these District Court Local Bankruptcy Rules, and when proposed shall

be transmitted to the Chief Judge of the District Court. The District Court may order that any proposed rule or amendment not take effect and may abrogate any such rule or amendment after it takes effect.

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DISTRICT COURT LOCAL CIVIL RULES APPLICABLE TO BANKRUPTCY MATTERS IN THE DISTRICT COURT

Except when a District Court Local Civil Rule would be inconsistent with a District Court Local Bankruptcy Rule, a Federal Rule of Bankruptcy Procedure, or a statutory provision, the District Court Local Civil Rules apply to any bankruptcy matter pending in the District Court, including appeals, motions to withdraw the reference, *de novo* review proceedings, and proceedings for which the reference has been withdrawn.

DCt.LBR 9033-1

DE NOVO REVIEW

(a) NOTIFICATION TO DISTRICT COURT THAT BANKRUPTCY RULE 9033(b) OBJECTIONS TO PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW HAVE BEEN FILED; DOCKETING OF THE SAME.

When a party files objections to proposed findings of fact and conclusions of law issued by the Bankruptcy Court:

- (1) the Clerk of the Bankruptcy Court must prepare and transmit a notice to the Clerk of the District Court attaching the objections, listing the parties and their attorneys' names and addresses (including e-mail addresses for purposes of e-notification), and stating that the record (including any responses to the objections) will be transmitted in due course; and
- (2) the Clerk of the District Court must docket the matter under the title of the bankruptcy case and the title of any adversary proceeding, identifying the party that filed the objections (and adding the name of that party to the title if necessary), assign the matter to a District Judge in accordance with the District Court's usual system for assigning civil actions, and give the parties notice of the assignment.

(b) FILING MEMORANDUM REPLYING TO RESPONSE TO OBJECTIONS.

Within 7 days after service of a response to objections filed under Bankruptcy Rule 9033(b), the party who filed the objections may file with the Clerk of the Bankruptcy Court and serve a memorandum in reply to the response.

(c) PROPOSED ORDER.

Objections, and responses thereto, filed under Bankruptcy Rule 9033(b) must include a proposed order captioned for the District Court and complying with DCt.LCvR 7(k).

(d) MOTIONS; FILING AND SERVICE; SIGNATURE; DISCLOSURE OF CORPORATE AFFILIATIONS AND FINANCIAL INTERESTS.

The following rules apply to a *de novo* review proceeding under Bankruptcy Rule 9033(b):

(1) DCt.LCvR 7(m) (Duty to Confer on Nondispositive Motions);

(2) Bankruptcy Rule 8011 (“Filing and Service; Signature”) (with the words “other parties to the appeal” in Bankruptcy Rule 8011(b) changed to “other parties to the *de novo* review proceeding”); and

(3) Bankruptcy Rule 8012 (“Corporate Disclosure Statement”) (with “upon filing a motion, response, petition, or answer in the district court” in Bankruptcy Rule 8012 (b) changed to “upon filing a paper intended for the attention of the District Court”).

(e) STATEMENT OF POINTS AND AUTHORITIES.

Objections, and responses thereto, filed under Bankruptcy Rule 9033(b) must include or be accompanied by a statement of the specific points of law and authority that support the party’s position, including where appropriate a concise statement of facts. If a table of cases is provided, counsel must place asterisks in the margin to the left of those cases or authorities on which counsel chiefly relies.

(f) PAGE LIMITATIONS.

Without prior approval of the District Court, a party must not file a memorandum of points and authorities in support of objections filed under Bankruptcy Rule 9033(b), or filed in response to the objections, that exceeds 45 pages, or a reply memorandum that exceeds 25 pages.

(g) **DESIGNATION OF RECORD.**

- (1) *Objecting Party.* Within 14 days after filing the objections, the objecting party must serve and file a designation of relevant items to be included in the record for the District Court's consideration.
- (2) *Responding Party.* Within 14 days after service of the objecting party's designation of record, any other party may serve and file a designation of additional items to be included in the record.
- (3) *Copies for the Clerk of the Bankruptcy Court.* If paper copies of any items are needed for the record, the party designating such items must provide a copy of any of those items that the Clerk of the Bankruptcy Court requests. If the party fails to do so, the Clerk of the Bankruptcy Court must prepare the copy at the party's expense.
- (4) *Transcript of Proceedings.* If the record designated by any party includes a transcript of any proceeding or a part thereof, then by the date of making that designation, that party must deliver to the reporter (designated on the Bankruptcy Court's website—or authorized by order or rule of the Bankruptcy Court—to prepare the transcript) and file with the Clerk of the Bankruptcy Court a written order for the transcript and make satisfactory arrangements with the reporter for paying the cost of the transcript. When a transcript is unavailable, the procedures of Bankruptcy Rule 8009(c) apply (with the words "appellant" and "appellee" changed to "objecting party" and "responding party," respectively).
- (5) *Other Necessary Actions.* All parties must take any other action necessary to enable the Clerk of the Bankruptcy Court to assemble and transmit the record.
- (6) *Agreed Statement as the Record.* The parties may submit an agreed statement of facts as a proposed record. If the statement is accurate, it—together with any additions that the Bankruptcy Court may consider necessary to a full presentation of the issues—must be approved by the bankruptcy judge and then certified as the record, and it shall constitute the record unless the District Judge undertaking *de novo* review directs otherwise.
- (7) *Unsupported Finding or Conclusion.* If an objecting party intends to argue that a proposed finding or conclusion is unsupported by the evidence or is contrary to the evidence, that party must include in the record a transcript of all relevant testimony and copies of all relevant exhibits.
- (8) *Bankruptcy Court.* The Bankruptcy Court may file a statement designating items

that it believes support its proposed findings of fact and conclusions of law and that it recommends that the District Court direct be included in the record.

(h) RECORD TO BE TRANSMITTED.

The record must include the following:

- items designated by the parties;
- the proposed findings of fact and conclusions of law, the objections thereto, any responses, and any reply;
- any transcript ordered;
- any statement of the Bankruptcy Court under paragraph (g)(8) of this rule; and
- any additional items that the District Court orders to be included.

(i) TRANSMITTAL OF RECORD TO DISTRICT COURT.

When the record is complete for purposes of transmittal, but without awaiting the filing of any transcripts, the Clerk of the Bankruptcy Court must transmit to the Clerk of the District Court :

- (1) the proposed findings of fact and conclusions of law, the objections thereto, any responses, and any reply; and
- (2) a notice that the record (except for any records under seal governed by DCt.LBR 5005-1) is available electronically.

(j) DISTRICT COURT MAY REQUEST PAPER COPIES OF RECORD.

The District Court may require that a paper copy of some or all of the record be furnished, in which case the Clerk of the District Court will direct the movant to provide the copies. If the movant fails to provide them, the Clerk of the Bankruptcy Court must prepare the copies at the movant's expense.

(k) PROCEEDINGS IN DISTRICT COURT.

After the record has been transmitted to the District Court, documents pertaining to the objections must be filed with the Clerk of the District Court.

(l) OBJECTIONS UNDER BANKRUPTCY RULE 9033 WHEN THE BANKRUPTCY JUDGE, WITHOUT AUTHORITY, ISSUED AN ORDER OR JUDGMENT DECIDING A PROCEEDING.

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If the Bankruptcy Court has issued a judgment or order deciding a proceeding and a party contends that the Bankruptcy Court lacked authority to issue the judgment or order, then DCt.LBR 8018.1-1 governs the requirement of filing of objections under Bankruptcy Rule 9033 to the Bankruptcy Court's findings of fact and conclusions of law as though they were proposed findings of fact and conclusions of law.

COMMENT TO DCt.LBR 9033-1:

Paragraph (a) is modeled on Bankruptcy Rule 8003(d), and requires immediate transmission of the objections to the District Court, and the docketing of them as a civil action, with the record to follow later.

Paragraphs (c), (e), and (f) are modeled on LCvR 7.

Paragraph (g)(7) is modeled on Bankruptcy Rule 8009(b)(5).

The objections papers filed in the Bankruptcy Court for the District Court's eventual attention should bear the caption of the Bankruptcy Court except that proposed orders intended for entry by the District Court should bear the caption of the District Court, bear a signature line for a United States District Judge, and, when a docket has not yet been opened in the District Court, leave the Civil Action Number blank.

[End of Appendix A]

APPENDIX D

Proposed Revised District Court
Local Civil Rules 40.3(c) and 40.8(b)(2)

LCvR 40.3

MANNER OF ASSIGNMENT

* * * * *

(c) BANKRUPTCY MATTERS.

- (1) The District Court Local Bankruptcy Rules govern assignment of a motion to withdraw the reference of a bankruptcy case or proceeding, and govern assignment of a withdrawn case or proceeding.
- (2) Except as provided in paragraph (1) above and LCvR 40.8(b)(2), other bankruptcy matters requiring the attention of a District Judge, including:
 - (i) any appeal of a Bankruptcy Court order or judgment;
 - (ii) any proceeding under Fed. R. Bankr. P. 9033 to consider proposed findings of fact and conclusions of law issued by the Bankruptcy Court; and
 - (iii) any motion relating to a bankruptcy case or proceeding (including, for example, any motion for a writ of mandamus or prohibition) (which motion shall be assigned a miscellaneous case number)

shall be randomly assigned.

LCvR 40.8

MOTIONS JUDGE

(b) MATTERS HEARD BY MOTIONS JUDGE.

The Motions Judge shall hear and determine the following matters:

- (2) Any emergency matter filed in the Bankruptcy Court, as to which no Bankruptcy Judge is available, and as to which the reference to the Bankruptcy Court is deemed withdrawn pursuant to, and subject to the limitations of, DCt.LBR 5011-1(d), which emergency matter shall be assigned a miscellaneous case number.

APPENDIX E

Proposed Revised District Court
Local Civil Rules 40.3(c) and 40.8(b)(2)
Compared to Current Rules

LCvR 40.3

MANNER OF ASSIGNMENT

(c) BANKRUPTCY MATTERS.

~~Bankruptcy~~(1) The District Court Local Bankruptcy Rules govern assignment of a motion to withdraw the reference of a bankruptcy case or proceeding, and govern assignment of a withdrawn case or proceeding.

(2) Except as provided in paragraph (1) above and LCvR 40.8(b)(2), other bankruptcy matters requiring the attention of a District Judge shall be submitted to the Motions Judge, except as otherwise provided in D.C. LBR 5011-1(f) and except that appeals from a Bankruptcy Judge's decisions and cases requiring a jury trial, including:

(i) any appeal of a Bankruptcy Court order or judgment;

(ii) any proceeding under Fed. R. Bankr. P. 9033 to consider proposed findings of fact and conclusions of law issued by the Bankruptcy Court; and

(iii) any motion relating to a bankruptcy case or proceeding (including, for example, any motion for a writ of mandamus or prohibition) (which motion shall be assigned a miscellaneous case number)

shall be randomly assigned.

* * * * *

LCvR 40.8

MOTIONS JUDGE

(b) MATTERS HEARD BY MOTIONS JUDGE.

The Motions Judge shall hear and determine the following matters:

- (2) ~~Matters requiring action by a District Court Judge in bankruptcy cases, except that appeals from decisions of the~~ Any emergency matter filed in the Bankruptcy Court, as to which no Bankruptcy Judge is available, and as to which the reference to the Bankruptcy Court is deemed withdrawn pursuant to, and subject to the limitations of, DCt.LBR 5011-1(d), which emergency matter shall be ~~randomly~~ assigned; a miscellaneous case number.