

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

In re: Administrative Orders of the Chief Judge

Case No. 3:21-mc-1-TJC

**AMENDED GENERAL ORDER ESTABLISHING
PROTOCOLS FOR PROCESSING BANKRUPTCY APPEALS¹**

The judges of the Court have considered issues associated with the filing of bankruptcy appeals including (a) untimely notices of appeal, (b) notices of appeal filed without payment of filing fees, (c) motions to proceed *in forma pauperis*, (d) issues related to the parties' designations of the record on appeal, and (e) the Bankruptcy Court's transmission of notices of appeal to the District Court. Acting upon the report and recommendation of the bankruptcy judges, upon thorough consideration, and to ensure the just, speedy, and cost-effective processing of bankruptcy appeals, the Court establishes the following protocol:

A. Untimely Appeals

1. If an appellant files a notice of appeal in the Bankruptcy Court that is untimely on its face under the deadlines set forth in Federal Rule of Bankruptcy Procedure 8002(a) and (b), the presiding bankruptcy judge may enter an order dismissing the appeal for untimeliness. Unless the District Court grants relief from the order dismissing the appeal under the provisions of paragraph 2 below, the entry of the dismissal order by the presiding bankruptcy judge shall have the effect of dismissing the appeal.

2. A party in interest aggrieved by the bankruptcy judge's order dismissing an appeal for untimeliness may file a motion for review by a district judge by filing such motion with the Clerk of the Bankruptcy Court within 14 days of the date of entry of the order dismissing the appeal. Upon receipt of such a motion for review, the Clerk of the

¹ This Amended General Order vacates and supersedes *General Order Establishing Protocol for Processing Untimely Bankruptcy Appeals*, No. 96-118-MISC-T, and *General Order Establishing Protocol for Processing Bankruptcy Appeals Without Payment of Filing Fees*, No. 96-119-MISC-T.

Bankruptcy Court shall transmit to the Clerk of the District Court a record sufficient to permit the district judge to review the bankruptcy judge's order of dismissal for untimeliness.

B. Motions to Proceed on Appeal *In Forma Pauperis*

1. The presiding bankruptcy judge shall hear and determine motions made in the Bankruptcy Court to proceed on appeal *in forma pauperis* under 28 U.S.C. § 1915.

2. A party in interest aggrieved by the bankruptcy judge's order determining the motion to proceed *in forma pauperis* may file a motion for review by a district judge by filing such motion with the Clerk of the Bankruptcy Court within 14 days of the date of entry of the bankruptcy judge's order. Upon the filing of such a motion for review, the Clerk of the Bankruptcy Court shall transmit to the Clerk of the District Court a record sufficient to permit the district judge to review the bankruptcy judge's order determining the motion to proceed *in forma pauperis*.

C. Failure to Pay Required Fees

1. If an appellant who has not obtained leave to proceed on appeal *in forma pauperis* files a notice of appeal without paying the filing fee required by Fed. R. Bankr. P. 8003(a)(3)(C), 28 U.S.C. § 1930(c), and the Bankruptcy Court Miscellaneous Fee Schedule, the presiding bankruptcy judge may enter a conditional order of dismissal of the appeal. The conditional order of dismissal shall direct the appellant to pay the required filing fee within 14 days of the date of entry of the conditional order of dismissal. Notwithstanding the provisions of Fed. R. Bankr. P. 8003(d)(1), 8004(c)(1), and 8010(b)(1), the Clerk of the Bankruptcy Court shall not transmit the notice of appeal, the conditional order of dismissal, or the record to the Clerk of the District Court until (a) the appellant has paid the filing fee, or (b) an aggrieved party has filed a motion for review as set forth in paragraph 3 below.

2. If the appellant fails to pay the filing fees as required by the bankruptcy judge's order, the appeal shall be deemed dismissed without further order of the Bankruptcy Court or the District Court.

3. A party in interest aggrieved by the bankruptcy judge's order of conditional dismissal may file a motion for review by a district judge by filing such motion with the Clerk of the Bankruptcy Court within 14 days of the date of entry of the bankruptcy judge's order. Upon the filing of such a motion for review, the Clerk of the Bankruptcy Court shall transmit to the Clerk of the District Court a record sufficient to permit the district judge to review the bankruptcy judge's conditional order of dismissal.

D. Designation of the Record on Appeal

1. The presiding bankruptcy judge may consider and rule upon the parties' motions for enlargement of time to file the designation of the record and statement of issues on appeal as required by Fed. R. Bankr. P. 8009(a)(1).

2. If an appellant fails to timely file the designation of the record and statement of issues on appeal, the presiding bankruptcy judge may enter a conditional order of dismissal of the appeal. The conditional order of dismissal shall direct the appellant to file the designation of the record and statement of issues on appeal within 14 days of the date of the entry of the conditional order of dismissal, failing which the appeal shall be deemed dismissed without further court order.

3. A party in interest aggrieved by the bankruptcy judge's order dismissing the appeal for failure to comply with Fed. R. Bankr. P. 8009(a)(1) may file a motion for review by a district judge by filing such motion with the Clerk of the Bankruptcy Court within 14 days of the date of the entry of the order of dismissal for untimeliness. Upon receipt of such a motion for review, the Clerk of the Bankruptcy Court shall transmit to the Clerk of the District Court a record sufficient to permit the district judge to review the bankruptcy judge's conditional order of dismissal for untimeliness.

4. In order to alleviate the burden on the Clerk of the Bankruptcy Court resulting from a party's excessive inclusion of irrelevant items in the party's designation of the record (such as, *e.g.*, by designating the "complete docket" or every single filing in a bankruptcy case or adversary proceeding), the presiding bankruptcy judge may review the parties' designations of the record, and, after notice and a hearing or the agreement of the parties, may direct a party to file an amended designation of the record. But in no event shall the bankruptcy judge limit a party's right to designate the record.

5. A party seeking to supplement the record on appeal under Fed. R. Bankr. P. 8009(e)(2) shall file with the Clerk of the Bankruptcy Court or the Clerk of the District Court (a) a stipulation of the parties agreeing to supplementation of the record or (b) a motion to supplement the record on appeal.

E. Transmission of the Notice of Appeal

The Clerk of the Bankruptcy Court shall transmit the notice of appeal to the Clerk of the District Court upon the occurrence of the first of the following events, which shall be deemed "prompt" transmission of the notice of appeal as required by Fed. R. Bankr. P. 8003(d)(1) and 8004(c)(1):

1. a timely motion for review by a district judge of the Bankruptcy Court's order dismissing the appeal as untimely as set forth in section A;

2. a timely motion for review by a district judge of the Bankruptcy Court's ruling on a motion to proceed *in forma pauperis* as set forth in section B;

3. a timely motion for review by a district judge of the Bankruptcy Court's order conditionally dismissing the appeal for failure to pay the filing fee as set forth in section C;

4. a timely motion for review by a district judge of the Bankruptcy Court's order conditionally dismissing the appeal for failure to timely file the designation of the record and statement of issues on appeal as set forth in section D;

5. the appellant's having completed the filing of the designation of the record and statement of issues on appeal in the Bankruptcy Court as set forth in section D; or

6. the Bankruptcy Court's entry of an order denying a motion for stay pending appeal under Fed. R. Bankr. P. 8007(a).

DONE AND ORDERED in Jacksonville, Florida, the 29th day of October, 2024.



Timothy J. Corrigan

TIMOTHY J. CORRIGAN

Chief United States District Judge