

UNITED STATES BANKRUPTCY COURT

SOUTH CAROLINA

Clerk's Instruction: Records and Issues on Appeal (CI-8006-1¹)

The procedures to be followed by any party seeking to file an appeal from a judgment, order, or decree of a bankruptcy judge to a district court are as follows:

- (a) The notice of appeal shall be filed with the clerk of this court within ten (10) days of the date of the entry of the judgment, order or decree appealed from. A notice of appeal filed after the announcement of a decision or order but before entry of the judgment, order, or decree shall be treated as filed after such entry and on the day thereof. The notice of appeal shall (1) conform to the appropriate Official Form; (2) contain the names of all parties to the judgment, order, or decree appealed from and the names, addresses and telephone numbers of their respective attorneys; and (3) be accompanied by the prescribed filing fee.
- (b) The bankruptcy judge may extend the time for filing the notice of appeal pursuant to the provisions of Federal Rule of Bankruptcy Procedure 8002(c) (Fed. R. Bankr. P. 8002(c)).
- (c) A motion for a stay of the judgment, order, or decree of a bankruptcy judge, for approval of a supersedeas bond, or for other relief pending appeal must ordinarily be presented to the bankruptcy judge in the first instance pursuant to the provisions of Fed. R. Bankr. P. 8005.
- (d) Within ten (10) days after filing the notice of appeal as provided by Fed. R. Bankr. P. 8001(a), entry of an order granting leave to appeal, or entry of an order disposing of the last timely motion outstanding of a type specified in Fed. R. Bankr. P. 8002(b), whichever is later, the appellant shall file with the clerk of this court and serve on the appellee a designation of the items to be included in the record on appeal and a statement of the issues to be presented.
- (e) Within ten (10) days after the service of the appellant's statement the appellee may file and serve on the appellant a designation of additional items to be included in the record on appeal.
- (f) Any party intending not to file an additional designation of contents (after the appellant's designation) shall complete and file with the clerk a Statement as to Record on Appeal within ten (10) days after service of the appellant's designation. This form is provided to the parties to the appeal by the clerk's office and is used if a party does not intend to file an additional designation of the record or statement of issues.
- (g) All requests for transcripts shall be made directly to the court's electronic court recording operator (ECRO) and must be made in writing. The estimated cost of the transcript will be provided by the ECRO and must be paid in advance of its preparation. The search fee is specified in the Bankruptcy Court Miscellaneous Fee Schedule, (Appendix to 28 U.S.C. § 1930(b)) and will be charged for any transcript request when the transcript request is completed and subsequently canceled. All requests for tape duplications of any matter heard by the court shall be made directly to the court's ECRO. A duplication fee specified in the Bankruptcy Court Miscellaneous Fee Schedule (per tape) must be paid to the clerk in advance.
- (h) The clerk shall, pursuant to Fed. R. Bankr. P. 8007(c), retain in the court file all original documents constituting the record on appeal. Following the final disposition of the appeal, any exhibits which were a part of the record shall be disposed of pursuant to SC LBR 9017-1.

¹See SC LBR 8006-1

- (i) The copy of the record to be transmitted to the District Court shall be furnished by the parties to the appeal by either:
- (1) providing the clerk with copies of those documents designated by the party for transmission to the District Court; or,
 - (2) requesting the clerk to make the copies and paying the fifty cents (50¢) per page copy cost for each page designated as part of the record.

Failure to provide the copies, or to request the clerk to make the copies, by the time the record is otherwise ready for transmittal to the District Court, will result in the copies being made and the designating parties being billed at fifty cents (50¢) per page.

- (j) The charges set forth in paragraph (i)(2) above shall be paid not later than twenty (20) days after a statement of charges is mailed to the designating party by the clerk of the bankruptcy court.