

SUMMARY OF REVISIONS
Proposed Local Rules of the
United States Bankruptcy Appellate Panel of the Tenth Circuit
Effective December 1, 2014

General Comments

The Advisory Committee on Bankruptcy Rules has proposed a comprehensive revision of the Federal Rules of Bankruptcy Procedure 8000 series, which govern bankruptcy appeals to the BAPs and district courts. The Advisory Committee intended these revisions to: (i) create similarities between the 8000 Series and the Federal Rules of Appellate Procedure; (ii) incorporate a presumption favoring electronic transmission, filing, and service of court documents; and (iii) adopt a clearer style. Many rules were reorganized and renumbered. To maintain consistency with the proposed 8000 Series revisions, the BAP revised its Local Rules as briefly described below.

Specific Comments

1. New L.R. 8001-1: This rule is derived from prior L.R. 8008-1(a) and (b). Prior L.R. 8008-1(b), which referred filers to the Tenth Circuit BAP ECF Procedures and Guidance (“ECF Rules”) has been deleted. Instead, to the extent that the ECF Rules are still applicable, they have been incorporated throughout the Local Rules. New subsection (a) incorporates prior ECF-1(A) and new subsection (b) incorporates prior ECF-1(B).
2. New L.R. 8001-2: This rule is derived from prior L.R. 8008-1(c), (d), (e), and (g), and ECF-1(B). New subsection (a) modifies the current procedure for an attorney to seek an exemption from mandatory e-filing. An attorney may now seek an exemption by motion for good cause shown.
3. New L.R. 8003-1: This rule was formerly L.R. 8001-1 with minor stylistic changes.
4. New L.R. 8003-2: This rule is derived from prior L.R. 8001-4. The Entry of Appearance was replaced by the Statement of Admission to Practice or Pro Se Status. The requirement that parties file a statement of admission to practice or pro se status, statement of interested parties, and statement regarding oral argument “upon filing a motion or response” was added. The option for exempt filers to consent to being served by e-mail, if they provide an e-mail address for service, was added. New L.R. 8003-2(a)(3) incorporates prior ECF-16(c).
5. New L.R. 8003-3: Subsection (a) of this rule was formerly L.R. 8001-5 with minor stylistic changes. Subsection (b) of this rule is derived from 10th Cir. R. 3.3(B). The new revisions allow an appeal to be dismissed immediately if a

party fails to pay the required fee or take other action within the time prescribed by the rule.

6. New L.R. 8004-1: This rule was added to ensure consistency with new Fed. R. Bankr. P. 8004(d).
7. New L.R. 8005-1: Subsections (a) and (b) are derived from prior L.R. 8001-3. The revised Official Form, effective December 1, 2014, requires a party to check a box to elect to the district court. New subsection (a) adds that a statement of election be included in the notice of appeal in order to clarify how parties can “substantially conform to the appropriate Official Form.” The requirement in L.R. 8001-3, that a cross-appellant file a separate statement of election in each appeal, was deleted as new subsection (a) requires an Appellant’s election to be stated in the Notice of Appeal and an Appellee’s election would have to be filed separately. Subsection (c) was formerly L.R. 8007-2(b)(2).
8. New L.R. 8007-1: This rule is derived from prior L.R. 8005-1. Prior subsection (a) was deleted as it was duplicative of new Fed. R. Bankr. P. 8007(b)(2). The “Appendix” referred to in prior subsection (b) has been changed to “Relevant Parts of the Record” in order to clarify new Fed. R. Bankr. P. 8007(b)(3)(C). Prior subsection (b)(2) was deleted as it was duplicative of Fed. R. Bankr. P. 8007(b)(3)(C).
9. New L.R. 8009-1: This rule is derived from prior L.R. 8006-1 with stylistic changes.
10. New L.R. 8009-2: This rule was added to clarify new Fed. R. Bankr. P. 8009(c). The rule requires that any objection or amendment to a statement of the evidence when a transcript is unavailable must be filed with the bankruptcy court.
11. New L.R. 8009-3: This rule is derived from 10th Cir. R. 10.3(B) and was added to provide notice to the parties of the consequences of filing an inadequate record.
12. New L.R. 8010-1: This rule is derived from prior L.R. 8007-2. Prior subsection (a) was deleted as it was duplicative of new Fed. R. Bank. P. 8003(d)(1). Prior subsection (b)(2) was relocated to new L.R. 8005-1.
13. New L.R. 8011-1: This rule is derived from prior L.R. 8008-5 with stylistic changes.
14. New L.R. 8011-2: This rule was added to incorporate prior ECF-12 and prior ECF-14. The rule limits electronic filing to 10 megabytes per uploaded file, requires electronic filings to be in text-searchable format, and permits the use of hyperlinks in some instances.

15. New L.R. 8012-1: This rule was added to create an internal reference between new Fed. R. Bankr. P. 8012 and new L.R. 8003-2(b).
16. New L.R. 8013-1: This rule is derived from prior L.R. 8011-1. Prior subsection (a) was deleted as unnecessary due to the BAP Clerk's Office practice of waiting for motion responses, unless the motion is procedural, which does not require a statement of opposition, or is an emergency, which is assumed to be opposed. Prior subsection (b) was modified to omit the duplicative language in prior Fed. R. Bankr. P. 8011(a). Prior subsection (c) was deleted as it was duplicative of new L.R. 8003-2. New subsection (b) is derived from prior L.R. 8011-4 with minor stylistic changes. Prior L.R. 8011-4(b) was deleted due to the BAP Clerk's Office's practice of providing BAP Judges with the items previously listed in this section. New subsection (c) was added to clarify that filings containing typeface with no smaller than 12-point font are acceptable. New subsection (d) was added to create an internal reference to L.R. 8018-1(i).
17. New L.R. 8014-1: This rule is derived from prior L.R. 8010-1(d). The rule clarifies that a statement of related case shall include the case title and number and the court in which the case is pending.
18. New L.R. 8015-1: This rule is derived from prior L.R. 8010-1. Prior subsection (a) was modified to clarify that the front cover of the brief need only contain the caption provided by the court to satisfy new Fed. R. Bankr. P. 8015(a)(2)(A)-(D). Prior subsection (b) was revised to delete duplications contained in new Fed. R. Bankr. P. 8015(a)(4). Prior subsection (d) was relocated to L.R. 8014-1. Prior subsection (f) was deleted as it was duplicative of new Fed. R. Bankr. P. 8017(d).
19. New L.R. 8018-1: This rule is derived from prior L.Rs. 8009-1, 8009-2, and 8009-3. Prior L.Rs. 8009-1 and 8009-2 were deleted in favor of adopting new Fed. R. Bankr. P. 8018(a)(1) and (b)(1) requiring an appellant to file a brief and appendix within 30 days and an appellee to file a brief within 30 days after the service of the appellant's brief. Prior L.R. 8009-3(b)(3), (c), and (d) were revised to provide clarity. Prior L.R. 8009-3(e) was deleted as it was duplicative of Fed. R. Bankr. P. 8018(c). Prior L.R. 8009-3(j) was deleted as unnecessary as the proposed Local Rules no longer require parties to file paper copies. Prior L.R. 8009-3(k) was revised to provide a procedure for requesting that an electronic filing be sealed.
20. New L.R. 8019-1: This rule is derived from prior L.R. 8012-1. Subsection (a) was revised to clarify that a request for videoconference shall be made by motion. Subsection (b) was revised to clarify that after the notice of oral argument has been docketed, changes to the date, method, or place assigned for

hearing will only be made for good cause shown. Prior subsection (c) was deleted as it was duplicative of new Fed. R. Bankr. P. 8018(a)(4).

21. New L.R. 8022-1: This rule is derived from prior L.R. 8015-1. Prior subsection (b) was deleted as it was duplicative of new Fed. R. Bankr. P. 8022(a)(2).
22. New L.R. 8024-1: This rule is derived from prior L.R. 8016-4. Prior subsection (a)(3) was revised to clarify that the BAP Clerk can join or consolidate as necessary when parties have separately filed notices of appeal pursuant to new Fed. R. Bankr. P. 8003(b)(2). Prior subsection (a)(9) was deleted because the content of the internal reference was deleted. New subsections (a)(10) and (a)(11) were added to allow the BAP Clerk to exempt an attorney from the electronic filing requirement and to construe a notice of appeal as multiple notices of appeal, respectively. Prior subsection (b)(1) was modified to clarify that the BAP Clerk has the authority to deny an election to have an appeal heard by a district court that is not in compliance with Fed. R. Bankr. P. 8005. New subsections (b)(3) and (b)(4) were added to allow the BAP clerk to join or consolidate appeals *sua sponte* and to dismiss an appeal for failure to prosecute, respectively.
23. New L.R. 8024-2: This rule is derived from prior L.R. 8016-5 with minor stylistic changes.
24. New L.R. 8024-3: This rule is derived from prior L.R. 8016-6. Prior subsection (d) was deleted to accommodate a change in practice – the mandate will no longer consist of a certified copy of the court order or judgment and a copy of any opinion.
25. New L.R. 8026-1: This rule was formerly L.R. 8018-1.
26. New L.R. 8026-2: This rule is derived from prior L.R. 8018-2 with minor stylistic changes.
27. New L.R. 8026-3: This rule was formerly L.R. 8018-3.
28. New L.R. 8026-4: This rule is derived from prior L.R. 8018-4. The language was revised to allow an exempt filer to consent to being served by e-mail when the filer provides an e-mail address. New subsection (c) no longer requires the BAP Clerk to issue an order to show cause before dismissing an appeal for failure to prosecute.
29. New L.R. 8026-5: This rule is derived from prior L.R. 8018-5. The rule was revised to account for changing technology. The rule now provides that a person cannot use an electronic device to take photographs or make recordings or transmit or broadcast BAP proceedings unless authorized.

30. New L.R. 8026-6: This rule was formerly L.R. 8018-6.
31. New L.R. 8026-7: This rule was derived from prior L.R. 8018-7 with minor stylistic changes.
32. New L.R. 8026-8: This rule was derived from prior L.R. 8018-8 with minor stylistic changes.
33. New L.R. 8026-9: This rule was formerly L.R. 8018-10.
34. New L.R. 8026-10: This rule was derived from prior L.R. 8018-11. New subsection (b) states that the effective date of the proposed rules is December 1, 2014.

Entire Rule Deletions:

Prior L.R. 8001-6: This local rule was deleted as it was duplicative of new L.R. 8003-3(b)(2).

Prior L.R. 8003-1: This local rule was deleted, as it was duplicative of new Fed. R. Bankr. P. 8004(b)(2).

Prior L.R. 8014-1: This local rule was deleted, as it was duplicative of new Fed. R. Bankr. P. 8021(d).

Prior L.R. 8018-9: This local rule was deleted, as it was duplicative of new Fed. R. Bankr. P. 8014(f).