



TENTH CIRCUIT BANKRUPTCY APPELLATE PANEL (BAP) PRO SE GUIDE

INFORMATION FOR PRO SE PARTIES FILING AN APPEAL OF A BANKRUPTCY COURT DECISION

The BAP judges are bankruptcy judges who understand bankruptcy law and hear appeals from the bankruptcy court. In a BAP appeal, three BAP judges determine whether or not the bankruptcy court decided something correctly. Appeals before the BAP are governed by Part VIII of the Federal Rules of Bankruptcy Procedure and the Tenth Circuit BAP Local Rules. You can find these rules on the BAP website (<https://www.bap10.uscourts.gov/>). The BAP judges can only decide whether the bankruptcy court decided something correctly. They cannot do something for you that you did not ask the bankruptcy court to do.

To prepare for a BAP appeal, the parties gather and submit information to the BAP, which allows the BAP to decide if the bankruptcy court decision was correct or not. There are several steps. Some steps take place at the bankruptcy court and other steps take place at the BAP. You, as the person that filed the appeal, are referred as the appellant during this process.

1. First, if you are interested in appealing a bankruptcy court decision, you must file a notice of appeal at the **bankruptcy court**. If you have a BAP case number, you already did this.
2. You must pay the filing fee of \$298 at the bankruptcy court when you file your notice of appeal. If you have filed an appeal of order that may not be final, you are only required to pay a \$5 fee upon filing the notice of appeal. Later, if a panel determines that your appeal may proceed as final, the remaining \$293 fee is then due. If you are trying to proceed *in forma pauperis* (the ability of an indigent person to proceed in court without payment of the usual fees associated with an appeal), you must file a motion for a fee waiver with a support affidavit with the bankruptcy court indicating why you are unable to pay the filing fees. If the bankruptcy court denies your motion, the fee will be due in 14 days.
3. Once the appeal is opened, the BAP Clerk's Office will send a notice with certain deadlines in your case. Please make a note of these deadlines. If an appellant fails to meet the deadlines set, the case may be dismissed.

4. Specifically, appellants are required to file a Statement of Issues on Appeal and a Designation of Record on Appeal **with the bankruptcy court**. Additionally, all parties are required to file a (i) Statement Regarding Pro Se Status or a Statement of Admission to practice (for attorneys only), (ii) a Statement Regarding Interested Parties, and (iii) a Statement Regarding Oral Argument **with the BAP**.

In the Statement of Issues on Appeal, you tell the BAP what it is that you do not agree with in the bankruptcy court decision. It can be simple. For example, you can write down the following sentence and fill in the blank:

I think the bankruptcy court was wrong when it _____
because _____.

A sample form is available for you to use on our website. You may fill out the form and file it with bankruptcy court.

5. In the Designation of Record, you tell the BAP what documents and information the bankruptcy court considered in reaching its decision. It is a list of the documents the bankruptcy court used when it decided the case. This typically includes a motion or adversary complaint and all other documents relating to it such as responses, replies, and answers. Your Designation of Record should include exhibits presented at trial (the documents the judge looked at when he/she decided the case). It should also list any transcripts.

A sample form is available on our website. You may fill out the form and file it at the bankruptcy court. Alternatively, you may print a copy of the bankruptcy court or adversary proceeding docket, circle or check the numbers of the documents used by the bankruptcy court applicable to your appeal, write "Designation of Record" at the top, sign the document, and file it as your Designation of Record. The bankruptcy court or adversary proceeding dockets will not include transcripts or, in some cases, exhibits. If applicable, these should also be included in your Designation of Record.

If there was a hearing at the bankruptcy court, it was recorded. A transcript is a written version of everything that was said at the bankruptcy court about the decision you are appealing. If you want the BAP to know what was said at the bankruptcy court hearing or trial, you must order the transcript. This is done at the bankruptcy court. Please contact the bankruptcy court for instructions on ordering the transcript.

6. You must also file three forms with the BAP: (i) the Statement of Pro Se Status, (ii) Statement Regarding Interested Parties, and (iii) Statement Regarding Oral Argument. These forms are filed with the BAP. These forms can be found on the BAP website.
7. When your case is opened, or after any jurisdictional issues have been resolved, the BAP Clerk's Office will also set a briefing schedule (deadlines for the parties to the case to file their briefs and appendices **with the BAP**). If an appellant fails to timely

file a brief and appendix, the case will be dismissed.

8. In an appellant's brief, the appellant should explain in more detail why they think the bankruptcy court was wrong. An appellant is required to comply with the rules regarding briefs and appendices as listed in the Brief and Appendix Checklist (Attachment 1). A brief may not be more than 30 pages total and must contain references (where appropriate) to the appellant's appendix. The appendix is made up of the documents that the appellant wants the BAP to review and only documents listed in the Designation of Record may be included in the appendix. The appendix must be paginated, include a table of contents, and comply with the other requirements set forth in the Brief and Appendix Checklist. A sample opening brief and appendix are available on the BAP website.
9. After an appellant has filed their brief and appendix, an appellee will have 30 days to file their brief (and supplemental appendix if necessary). After an appellee has filed their brief, appellant has 14 days to file a reply brief. Reply briefs may be no longer than 15 pages. A sample brief and appendix are included on our website.
10. After all briefs are filed, three BAP judges will decide your case. The case may be set for oral argument or may be decided by the judges based on the paperwork. Oral argument is a hearing before three BAP judges where you tell the judges why you agree with or disagree with the bankruptcy court. With or without oral argument, the BAP judges will read the paperwork and decide the case.

**UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE TENTH CIRCUIT**

IN RE DEBTOR,

Debtor.

APPELLANT'S NAME,

Appellant,

v.

APPELLEE'S NAME,

Appellee.

BAP No. _____

Bankr. No. _____
Chapter _

OPENING BRIEF

Party's Name
Address, Email

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GUIDANCE ON HOW TO DRAFT EACH SECTION

Table of Authorities (with references to the pages of the brief where they are cited)

Cases (alphabetically arranged)

Rules

Statutes

Example - 11 U.S.C. § 541 2

Jurisdictional Statement

Appellant filed a notice of appeal on [Date of Filing of Notice of Appeal] appealing the Bankruptcy Court’s [Title of Order Appealed] entered on [Date of Entry of Order Appealed]. The basis for the Bankruptcy Court’s subject-matter jurisdiction is [. . . .] The basis for the Bankruptcy Appellate Panel’s jurisdiction is [. . . .]. [Assertion addressing finality or establishing the BAP’s jurisdiction on another basis.]

Statement of the Issues and Standard of Review

[List of Issues on Appeal]. For each one, a concise statement of the applicable standard of appellate review.

Statement of the Case

A concise statement of the case setting out the facts relevant to the issues submitted for review, describing the relevant procedural history, and identifying the rulings presented for review, with appropriate references to the record.

Summary of the Argument

A succinct, clear, and accurate statement of the arguments made in the body of the brief, and which must not merely repeat the argument headings.

Argument

Appellant’s contentions and the reasons for them with citation to the authorities and parts of the record on which the appellant relies.

1. Argument 1
2. Argument 2

Conclusion

A short conclusion stating the precise relief sought.

Signature Block

DATED this ___ day of _____, 202__.

/s/ Filing Party
Filing Party Name
Address
Email

CERTIFICATE OF SERVICE

I hereby certify that on the ___ day of _____, 202__, the foregoing document was served via email/U.S. Mail:

[List of Parties Served with e-mail addresses or mailing addresses]

/s/ Name _____
Name

**UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE TENTH CIRCUIT**

IN RE DEBTOR,

Debtor.

APPELLANT'S NAME,

Appellant,

v.

APPELLEE'S NAME,

Appellee.

BAP No. _____

Bankr. No. _____
Chapter _

APPENDIX

Party's Name
Address, Email

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BANKRUPTCY CASE DOC. NO.	DOCUMENT TITLE	PAGE NO.
	Relevant Docket Entries / Copy of Bankruptcy Court or Adversary Proceeding Docket	1
	Other Parts of the Record Must Follow Chronologically	
NA	Transcript [If Applicable]	

DATED this ____ day of ___, 202_.

Respectfully Submitted,

/s/ Filing Party Name _____

Filing Party Name

Address, Email, Phone Number

CERTIFICATE OF SERVICE

I hereby certify that on the ___ day of _____ 202__, a true, correct and exact copy of the above and foregoing document was served via email/U.S.to the following:

[List of Parties with Email Addresses and/or Mailing Addresses]

DATED this ___ day of _____, 202_.

/s/ Name _____
Name