

~~LRCiv 3.6~~

~~BANKRUPTCY APPEAL CASES~~

~~**Bankruptcy Appeal Cases.** Except with permission of the district court, the appellant's and appellee's opening briefs shall not exceed seventeen (17) pages, and reply briefs shall not exceed eleven (11) pages, exclusive of pages containing the table of contents, tables of citations, proof of service and any addendum containing statutes, rules, regulations or similar material.~~

LRCiv 3.7

REMOVAL TO FEDERAL COURT

(a) **Procedure.** A defendant or defendants desiring to remove any civil action or criminal prosecution from a state court shall file ~~with the clerk of Court~~ a Notice of Removal, signed pursuant to Rule 11 of the Federal Rules of Civil Procedure. The notice ~~will also~~ must contain an affirmative statement that a copy of the notice has been filed with the ~~State Court Clerk.~~ clerk of the state court from which the action or prosecution has been removed. ~~The party seeking the removal shall file with the district court all pleadings filed by all parties with the state court prior to the notice of removal.~~ In addition, ~~to submitting~~ to submitting the civil cover sheet, (AO Form JS-44), the removing party ~~shall~~ must also submit a "Supplemental Civil Cover Sheet for Cases Removed from Another Jurisdiction," ~~to accompany each Notice of Removal.~~

(b) **State Court Record.** The removing party must file copies of all pleadings and other documents that were previously filed with the state court, accompanied by a verification from the removing party or its counsel that they are true and complete copies of all pleadings and other documents filed in the state court proceeding. Unless the removing party files a motion requesting an extension of time for good cause, the state court record must be filed when the notice of removal is filed.

(c) **Pending Motions.** If a motion is pending and undecided in the state court at the time of removal, the Court need not consider the motion unless and until a party files and serves a notice of pending motion. The notice must: (1) identify the motion by the title that appears in its caption;

(2) identify any responsive or reply memoranda filed in connection with the motion, along with any related papers, such as separately filed affidavits or statements of fact; and
(3) state whether briefing on the motion is complete, and, if not, it must identify the memoranda or other papers yet to be filed.

(d) **Jury Trial Demand.** In a case removed from state court, a party must comply with Federal Rule of Civil Procedure 81(c) to preserve any right to a trial by jury.

LRCiv 5.5

ELECTRONIC FILING

(c) **Scope of Electronic Filing.** All cases filed in this Court will be maintained in the Electronic Case Filing (ECF) System in accordance with these rules and the Administrative Manual. Unless otherwise ordered by the Court or as provided by the Administrative Manual, electronic filing is mandatory for attorneys.

III. Pleadings and Motions

F.R.Civ.P. 7. Pleadings Allowed; Form of Motions

LRCiv 7.1

FORMS OF PAPERS

(b) Pleadings and Other Papers.

(1) All pleadings and other papers shall be written in the English language, submitted on unglazed paper in letter size (8 ½ inches by 11 inches) format and shall be signed as provided in Rule 11 of the Federal Rules of Civil Procedure. ~~Documents intended for filing shall be presented to the Clerk's Office without being folded or rolled and shall be kept in flat files.~~ The body of all documents shall be typed double-spaced and shall not exceed 28 lines per page; they shall not be single-spaced except for footnotes and indented quotations. All pleadings, motions and other original ~~papers~~ documents filed with the Clerk shall be in a fixed-pitch type size no smaller than ten (10) pitch (10 letters per inch) or in a proportional font size no smaller than 13 point, including any footnotes. The left margin shall not be less than 1 ½ inches and the right margin shall not be less than ½ inch. All paper documents presented for filing shall be on unglazed paper stapled in the upper left-hand corner. Paper documents intended for filing shall be presented to the Clerk's Office without being folded or rolled and shall be kept in flat files. ~~Paper d~~Documents which are too large for stapling should be bound with a metal prong fastener at the top, center of the document. Documents filed by incarcerated persons are exempt from the stapling and fastening requirements.

LRCiv 7.2

MOTIONS³

(e) **Length of Motions and Memoranda.** Unless otherwise permitted by the Court, a motion including its supporting memorandum, and the response including its supporting memorandum, each shall not exceed seventeen (17) pages, exclusive of attachments and any required statement of facts. Unless otherwise permitted by the Court, a reply including its supporting memorandum shall not exceed eleven (11) pages, exclusive of attachments. Attachments shall exclude materials extraneous to genuine issues of material fact or law.

³ The time periods prescribed in the Local Rules are to be computed in accordance with Rule 6, Federal Rules of Civil Procedure.

LRCiv 7.2

MOTIONS

(g) **Motions for Reconsideration.**

(1) Form and Content of Motion. The Court will ordinarily deny a motion for reconsideration of an Order absent a showing of manifest error or a showing of new facts or legal authority that could not have been brought to its attention earlier with reasonable diligence. Any such motion shall point out with specificity the matters that the movant believes were overlooked or misapprehended by the Court, any new matters being brought to the Court's attention for the first time and the reasons they were not presented earlier, and any specific modifications being sought in the Court's Order. No motion for reconsideration of an Order may repeat any oral or written argument made by the movant in support of or in opposition to the motion that resulted in the Order. Failure to comply with this subsection may be grounds for denial of the motion.

(2) Procedure. No response to a motion for reconsideration ~~or clarification~~ and no reply to the response ~~shall~~ may be filed unless ordered by the Court, but no motion for reconsideration may be granted unless the Court provides an opportunity for response. Absent good cause shown, any motion for reconsideration shall be filed no later than ten (10) days after the date of the filing of the Order that is the subject of the motion.

LRCiv 7.2

MOTIONS

(m) Motions to Strike.

(1) Generally. Unless made at trial, a motion to strike may be filed only if it is authorized by statute or rule, such as Federal Rules of Civil Procedure 12(f), 26(g)(2) or 37(b)(2)(C), or if it seeks to strike any part of a filing or submission on the ground that it is prohibited (or not authorized) by a statute, rule, or court order.

(2) Objections to Admission of Evidence on Written Motions. An objection to the admission of evidence offered in support of or opposition to a motion must be presented in the objecting party's responsive or reply memorandum (or, if the underlying motion is a motion for summary judgment, in the party's response to another party's separate statement of material facts) and not in a separate motion to strike or other separate filing. Any response to the objection must be included in the responding party's reply memorandum for the underlying motion and may not be presented in a separate responsive memorandum.

F.R.Civ.P. 29. Stipulations Regarding Discovery Procedure

LRCiv 29.1

DISCOVERY; EXTENSIONS OF TIME

~~(a) **Extensions of Time for Discovery.**~~ Pursuant to the provisions of Rule 29, Federal Rules of Civil Procedure, all stipulations submitted to the Court for an order to extend time provided in Rules 33, 34 and 36, Federal Rules of Civil Procedure, for responses to discovery, shall set forth the reasons for such stipulation, including a statement as to whether or not a time for completion of discovery has been ordered by the Court.

LRCiv 83.2

DISBARMENT ATTORNEY DISCIPLINE

(c) ~~Suspension by Such Action~~Discipline in Any Other Jurisdiction. Where it is known to the Court that if an attorney admitted or otherwise authorized to practice before this Court has been suspended or disbarred from practice by any court of competent jurisdiction, that fact will be sufficient ground for the attorney's removal or attorney's suspension by this Court, and the attorney will be forthwith suspended from practice before this Court, and, unless, upon notice mailed to the attorney at the address shown in the Clerk's records, . Unless the attorney shows good cause to the contrary within forty (40) days , the attorney will be disbarred after the date on which a notice of suspension by this Court is sent to the attorney at the address shown in the Clerk 's records, the Court may disbar the attorney from practice in this Court or impose other appropriate limitations or conditions on the attorney, including the suspension of the attorney for a fixed period of time. Notice of such action will be sent to the attorney at the address shown in the Clerk's records.

(d) **Notice to Clients.** Within five (5) days of the date of the sending of a notice of suspension or a notice of other action by the Court, the attorney must file in each action pending before this Court in which the attorney currently is counsel of record a notice (1) setting forth the client's full name and last known mailing address and telephone number and (2) certifying that:

(1) the attorney has notified the attorney's client involved in the action in writing of (A) the specific limitations or conditions the Court has imposed upon the

attorney, including suspension or disbarment; (B) the status of the action, including the dates and times of any hearings or trial settings, existing deadlines set forth in Court Orders and the possibility of sanctions for failure to comply with those deadlines; and (C) if applicable, the attorney's inability to provide continuing representation in the action because the attorney has been suspended or disbarred; or

(2) the attorney's client cannot be located or for whatever other reason cannot be provided notice as required by this Local Rule.

(de) **Arizona Rules of Professional Conduct.** The "Rules of Professional Conduct," in the Rules of the Supreme Court of the State of Arizona, shall apply to attorneys admitted or otherwise authorized to practice before the United States District Court for the District of Arizona.

LRCiv 83.3

APPEARANCE BY ATTORNEY OR PARTY; NAME AND ADDRESS CHANGES;
CONTROL OF CAUSE

(b) **Withdrawal and Substitution.**

(4) Notwithstanding the provisions of paragraph (b) of this Local Rule, ~~whenever a federal, state, county or municipal law office headed by a public officer who has appeared as counsel of record, a governmental law office or a private or public law firm that has been retained by a party and has appeared as counsel of record while remaining counsel of record wishes to~~ may substitute or associate an attorney who is a member of, associated with, or otherwise employed by that office or firm ~~such substitution or association may be accomplished by~~ timely filing a notice of substitution or association with the ~~Clerk of the Court~~. The notice shall state the names of the attorneys who are the subjects of the substitution or association and the current address and e-mail address of the attorney substituting or associating. An occasional court appearance or filing of a pleading, motion or other document as associate counsel at the request of an attorney of record shall not require the filing of a notice of association. Counsel substituted or associated pursuant to this paragraph must also comply with (b)(3) above.

LRCiv 83.3

APPEARANCE BY ATTORNEY OR PARTY; NAME AND ADDRESS CHANGES;
CONTROL OF CAUSE

(d) Notice Changes of Name, and Affiliation, Address Changes. Any attorney or unrepresented party in an action pending in this District must file and serve a written notice advising if he or she has a change in of a name or address change, and an. Any attorney in an action pending in this District must also file and serve a written notice advising if he or she has of a change of in name, firm name, address or e-mail address. The attorney's State Bar Attorney number must appear on such notification. The notice must be filed no later than ten (10) days before the move becomes effective, date of the change, except that an unrepresented party who is incarcerated must submit a notice within 5 days after the effective date of the change and include all case numbers of all pending matters in which the unrepresented party or the attorney has appeared. A separate notice must be filed in each active case. An attorney whose name, address, e-mail address, firm name or address has changed must also update the information through the Electronic Case Filing System utility menu.

LRCiv 83.7

STIPULATIONS OF COUNSEL

~~(a) **Generally.**~~ No agreement between parties or attorneys is binding, if disputed, unless it is in writing signed by the attorney of record or by the unrepresented party, or made orally in open court and on the record; provided, however, that in the interests of justice the Court shall have the discretion to reject any such agreement.

F.R.Crim.P. 5 Initial Appearance

LRCrim 5.1

ASSIGNMENT OF CASES AND MATTERS; CRIMINAL; JUVENILE

(a) Assignment of Criminal Cases.

(1) General. Within each division, the criminal cases, when filed, shall be assigned among the District Judges of the division by the Clerk (or by a deputy designated by the Clerk) by automated random selection and in a manner so that neither the Clerk nor any parties or their attorneys shall be able to make a deliberate choice of a particular Judge for a particular case. At the conclusion of the preliminary hearing and detention hearing in Tucson, or at the conclusion of the grand jury return in Phoenix, the Clerk shall randomly refer the criminal case to a Magistrate Judge. The cases so assigned or referred shall remain with the Judges to whom assigned or referred unless otherwise ordered by the Court. With the exception of defense counsel, any officer of the Court who determines that a new charge has been filed against a defendant who is under federal Court supervision shall immediately notify the presiding judge before whom the new case is pending.

~~Where a defendant is charged with a new crime and is currently on~~ (2) Supervised Release and Probation.

(a) Except as provided in subsections (b), (c) and (d) below, new cases in which the defendant is already on probation or supervised release, the new case which is pending or subsequently filed shall be assigned to the District Judge presiding over the revocation proceeding. However, if the Judge assigned the revocation proceeding is a Senior District Judge, unless otherwise ordered by that Judge, both matters judge to whom the probation or supervised release case is assigned.

(b) If the judge to whom the probation or supervised release case is assigned is on Senior Status and does not want both cases, both the new case and the petition to revoke probation or supervised release shall be assigned to a District Judge drawn by automated random selection, subject to subsections (c) and (d) below.

(c) Where the new case and the probation or supervised release case are in different divisions, the new case shall remain in its division, and the petition to revoke probation or supervised release shall be reassigned to that division's judge, unless the judge to whom the supervised release case is assigned wants to keep the petition.

(d) In the case of a consolidated plea agreement which resolves both a new felony illegal reentry after deportation, and a supervised release violation for illegal reentry, alien smuggling, or drug trafficking, the judge to whom the new offense is assigned shall also decide the request for unsuccessful termination of supervision, unless the judge to whom the supervised release violation is assigned objects, in which case both the new case and the supervised release case shall be assigned to the objecting judge. In all such cases, defense counsel shall be assigned to handle the entire consolidated proceeding, the sentencing and disposition shall be consolidated, and the clerk shall file the minutes in both cases.

Title V. Venue

F.R. Crim.P. 18. Place of Prosecution and Trial

LRCrim 18.1

LOCATIONS

With regard to locations of court, schedule of hearings, and place of trial, see Rule 77.1, Local Rules of Civil Procedure and Rule 57.6, Local Rules of Criminal Procedure.

F.R.Crim.P. 57. District Court Rules

LRCrim 57.1

PRETRIAL SERVICES

Pursuant to the Pretrial Services Act of 1982 (18 U.S.C. § 3152-3155), the Court establishes an independent Pretrial Services Office for the District of Arizona.

Upon notification that a defendant has been arrested, pretrial service officers will conduct a prerelease interview as soon as practicable. The judicial officer setting bail or reviewing a bail determination shall receive and consider all reports submitted by pretrial service officers.

A copy of the pretrial service report shall be provided to and may be retained by the attorneys for the accused and the Government, and shall be used only for the purpose of fixing conditions of release, including bail determinations. In addition, all supplemental reports prepared prior to the defendant's initial release will be provided to and may be retained by counsel. When a copy is provided, ~~the pretrial service office will advise~~ it will have a header on the first page advising the attorneys ~~by cover letter or form~~ that (a) the report is not to be copied, (b) the report is not a public record, and (c) that the content may not be disclosed to unauthorized individuals. Otherwise, the reports shall remain confidential, as provided in 18 U.S.C. § 3153, subject to the expectations provided therein.

Pretrial service officers shall supervise persons released on bail at the discretion of the judicial officer granting the release or modifications of the release.

LRCrim 57.6

UNITED STATES MAGISTRATE JUDGES

(a) **Duties Prescribed.** All Magistrate Judges in the District of Arizona shall perform the duties prescribed by ~~28 U.S.C. § 636(a)(1) and (2)~~ 28 U.S.C. § 636(a). ~~Unless circumstances dictate otherwise, a part-time Magistrate Judge shall, after compliance with Rule 5(b) Rule 5 of the Federal Rules of Criminal Procedure, set any required preliminary examination under Rule 5(c) Rule 5.1 of the Federal Rules of Criminal Procedure before a full-time Magistrate Judge located at the place where the case is to be tried.~~

(b) **Duty Stations.** The Magistrate Judges maintaining official stations at Grand Canyon National Park, Phoenix, Yuma, Flagstaff, Page, ~~Holbrook/Window Rock~~ Kingman, and Tucson, are each specifically designated pursuant to 18 U.S.C. § 3401 to try persons accused of, ~~adjudge,~~ and sentence persons convicted of misdemeanors. ~~and any person so accused shall immediately be referred for trial or other proceedings before such Magistrate Judge.~~ Any Magistrate Judge may accept a forfeiture of collateral or may enter judgment in a misdemeanor case based on a plea of guilty or *nolo contendere*. A Magistrate Judge trying a defendant charged with a misdemeanor shall do so in the manner prescribed by Rule 58 of the Federal Rules of Criminal Procedure.

(c) **Consent of Defendant.** Upon the transfer, under Rule 20 of the Federal Rules of Criminal Procedure, of any information, or complaint, or indictment charging a misdemeanor, the case shall be referred immediately without unnecessary delay to a Magistrate Judge who may take a plea and impose sentence ~~in accordance with the rules for the trial~~

~~of misdemeanors in the manner prescribed by Rule 58 of the Federal Rules of Criminal Procedure. ,if the defendant consents in writing to this procedure.~~

(d) **Other Duties.** Subject to the Constitution and laws of the United States, the full-time Magistrate Judges in the District of Arizona shall perform the following duties:

(1) Assist the District Judges in the conduct of pretrial discovery proceedings in ~~civil or~~ criminal actions. A Magistrate Judge may hear and determine a procedural or discovery motion or other pretrial matter in a civil or criminal case other than the motions which are specified in 28 U.S.C. § 636(b)(1)(A). As to such specified motions so assigned, a Magistrate Judge shall, upon designation by a District Judge, submit to that District Judge a report containing proposed findings of fact and recommendations for disposition by the District Judge. Except upon the express consent of all parties pursuant to 28 U.S.C. § 636(c), ~~in any~~ motion in which the parties are seeking the sanctions provided for in Rule 37(b)(2)(A), (B), ~~or~~ (C) or (D), Federal Rules of Civil Procedure, if the Magistrate Judge is inclined to grant such requests the Magistrate Judge shall be limited to filing a report and recommendation ~~with the District Court~~ to the assigned District Judge; if the Magistrate Judge is inclined to deny any such request, he or she may enter an order thereon. A ~~full-time~~ Magistrate Judge may, when designated by a District Judge, conduct any necessary hearings, including evidentiary hearings, or other proceedings arising in the exercise of the authority conferred by 28 U.S.C. § 636 and by these Local Rules.

(2) Conduct voir dire examinations and select juries

in ~~civil and~~ criminal cases by ~~agreement~~ express consent of ~~the~~ all parties and order of referral from a District Judge.

(3) Conduct all detention hearings, including juvenile hearings pursuant to 18 U.S.C. § 5034, and hearings to amend, modify or revoke conditions of release under the Bail Reform Act of 1984, as amended, ~~other than~~ except hearings in felony cases after a finding of guilt ~~and prior to imposition of sentence, or after a finding of guilt and sentence of imprisonment~~ unless expressly authorized to do so by the District Judge. Notwithstanding this provision, all ~~full-time~~ Magistrate Judges in this district are specifically authorized to conduct detention hearings on alleged probation and supervised release violations ~~and in all instances of alleged violation of presentence release conditions,~~ unless the assigned District Judge directs otherwise.

(4) Review and submit recommendations to a District Judge ~~the Court~~ on all petitions for revocation of probation and supervised release and conduct necessary proceedings leading to the potential revocation of probation and supervised release and, upon the express consent of the parties and order of referral from a District Judge, take all admissions to violations of probation or supervised release conditions.

(5) Conduct arraignments, accept not guilty pleas, and set ~~time~~ deadlines for filing of motions and responses thereto in criminal cases.

(6) Receive the return of indictments by the Grand Jury and issue bench warrants when necessary for defendants named in the indictments.

(7) Dismiss indictments on motion of the United

States Attorney and with the consent of the defendants.

(8) Enter orders for examination to determine mental competency; hold hearings and conduct examinations to determine mental competency; and enter orders determining mental competency except any motion to involuntarily medicate a defendant in an effort to restore competency.

(9) Conduct preliminary proceedings incident to transfer of cases pursuant to Rule 20, Federal Rules of Criminal Procedure.

(10) Issue subpoenas and writs of habeas corpus ad prosequendum and writs of habeas corpus ad testificandum or other orders necessary to obtain the presence of parties, witnesses, or evidence needed for court proceedings.

(11) Enter orders forfeiting bail where a defendant breaches his or her bail conditions ~~by failing to appear in petty offense cases or Class A misdemeanor cases proceedings wherein all parties have consented to scheduled before the a Magistrate Judge pursuant to Rule 58 of the Federal Rules of Criminal Procedure.~~

(12) ~~Receive notice of the Government's intention to destroy all but samples of controlled substance seizures and any hazardous chemical substance, to enter appropriate order, and to hear and determine objections thereto unless exigent circumstances reasonably require such consideration by the Magistrate Judge on an ex parte basis. Hear and adjudge objections to notice of the Government's intention to destroy all but samples of controlled substance seizures and any hazardous chemical substance. Such determinations may include ex parte consideration by the Magistrate Judge if exigent circumstances reasonably require such.~~

(13) Issue orders upon appropriate application for disclosure of Grand Jury information pursuant to ~~Rule 6(e)(3)(C)(i), (ii), and (iv)~~ Rule 6(e)(3)(E) of the Federal Rules of Criminal Procedure.

(14) ~~Make determinations and enter appropriate orders pursuant to 28 U.S.C. § 1915 with respect to any suit, action, or proceedings in which a request is made to proceed *in forma pauperis* consistent with federal law of indigency based upon a signed and completed financial affidavit or upon oath or affirmation of a defendant pursuant to 18 U.S.C. § 3006A(b).~~

(15) Conduct extradition proceedings in accordance with 18 U.S.C. § 3184.

(16) Direct the probation service of the Court to conduct a presentence investigation in any misdemeanor case or felony case referred to the Magistrate Judge for taking of a guilty plea.

(17) Conduct a jury trial in a Class A Misdemeanor case upon the express written consent of all the parties and any misdemeanor petty offense case where the defendant parties so request a jury trial and are entitled to trial by jury under the Constitution and laws of the United States.

(18) ~~Make determinations and enter appropriate orders in cases assigned to them pursuant to the Speedy Trial Act (18 U.S.C. § 3161-74), unless otherwise indicated by the Act. In cases assigned to the Magistrate Judge, make determinations and enter appropriate orders pursuant to the Speedy Trial Act, unless otherwise indicated by the Act.~~

(19) Conduct pretrial conferences, settlement conferences, and related pretrial proceedings in ~~civil and~~ criminal cases upon the referral of a District Judge.

(20) Accept waivers of indictment pursuant to Rule 7(b) of the Federal Rules of Criminal Procedure.

(21) Accept petit jury verdicts in ~~civil and~~ criminal cases ~~in the absence of a District Judge and~~ with consent of the parties and upon the referral of a District Judge.

(22) Perform the functions specified in 18 U.S.C. § 4107, § 4108, § 4109, regarding an individual's eligibility to be extradited, ascertaining whether the crime is an extraditable offense under the relevant treaty, whether probable cause exists to sustain the charge, and conducting proceedings for verification of consent by offenders to transfer to or from the United States and the appointment of counsel therein.

(23) Issue orders authorizing the installation and use of a pen register or a trap and trace device pursuant to 18 U.S.C. §§ 3122-23, and related orders directing the furnishing of information, facilities and technical assistance necessary to accomplish the installation of the pen register or trap and trace device as well as orders and search warrants pursuant to 18 U.S.C. § 2701 through 2710 for subscriber or customer information and for contents of electronic communications, as provided by law. ~~This provision may apply to part-time and full-time Magistrate Judges in the District.~~

(24) Issue orders and search warrants authorizing civil administrative and other examinations, inspections, searches, and seizures as permitted by law. ~~This provision shall apply to part-time and full-time Magistrate Judges in the District.~~

(25) Conduct felony guilty plea proceedings pursuant to Rule 11, Federal Rules of Criminal Procedure upon referral

of such proceedings by a District Judge with the consent of the parties, or upon the filing of an information prior to assignment of a District Judge after waiver of indictment in open court before a Magistrate Judge in compliance with Rule 7(b), Federal Rules of Criminal Procedure, with the express written consent of the parties. The Magistrate Judge shall make findings with respect to the voluntariness of the plea and the defendant's understanding of other matters as required by Rule 11(b), Federal Rules of Criminal Procedure, the presence of a factual basis for the plea, and shall make a recommendation whether the guilty plea should be accepted by the District Judge.

(26) Perform such additional duties as are not inconsistent with the Constitution and laws of the United States as may be assigned by the Court pursuant to 28 U.S.C. § 636(b).

(e) **Waiver of Appearance.** A person who is charged with a ~~suitable~~ misdemeanor, as defined in ~~Pub. L. 98-473, 18 U.S.C. 3559(a)(6)-(9) Title II, Sec. 218 (a)(1)~~, may, in lieu of appearance, post collateral in the amount indicated by the offense, waive appearance before a Magistrate Judge ~~specifically designated herein to try misdemeanors~~, and consent to forfeiture of collateral to the United States.

(f) **Amount of Collateral Set.** A Schedule of Collateral for all violations signed by this Court shall be maintained in the office of the Clerk of the Court in Phoenix and Tucson, and the office of each Magistrate Judge. The Schedule shall be available for examination by the public upon request. Schedules may be amended from time to time by order of the Court. ~~The Magistrate Judge may increase the amount of~~

~~collateral by the time specified in the violation notice or in a notice to appear or fails to appear before the Magistrate Judge when required. The collateral, after being increased, shall not exceed the maximum fine which could be imposed upon conviction and for the initial failure to post collateral or to appear shall in no event exceed twenty-five dollars (\$25) more than the scheduled amount. The Magistrate Judge may increase or decrease the amount of collateral, but if increased, the collateral may not exceed the maximum fine which could be imposed upon conviction.~~

(g) **Violation of Release.** Nothing contained in paragraph (e), of this Local Rule, shall prohibit a law enforcement officer from arresting any person for the commission of any offense, including ~~those~~ any offense for which collateral may be posted and forfeited, ~~and,~~ Upon such arrest, a law enforcement officer taking shall take without unnecessary delay the arrested person immediately before a specifically designated Magistrate Judge, or require requiring the person charged to make a mandatory appearance before a specifically designated Magistrate Judge. In the event a Magistrate Judge is not readily available, an arrested person may post bail in the amount set for the offense in the Schedule of Collateral or if no amount is set then five hundred dollars (\$500.00), unless the person is taken without unnecessary delay before a state or local judicial officer authorized by the 18 U.S.C. 3041, who may then set bail and/or other conditions of release, if appropriate, pursuant 18 U.S.C. 3142.

LRCrim 57.13

~~DISBARMENT~~ ATTORNEY DISCIPLINE

With regard to ~~disbarment~~ attorney discipline, see Rule 83.2, Local Rules of Civil Procedure.

F.R.Crim.P.58. Petty Offenses and Other Misdemeanors

LR crim 58.1

ASSIGNMENT OF CRIMINAL MATTERS TO MAGISTRATE JUDGES

(MISDEMEANORS)

(a) **Criminal Cases.** All misdemeanor cases filed by indictment or information shall be assigned to a full-time Magistrate Judge who shall proceed in accordance with 18 U.S.C. § 3401 and ~~the Rule of Procedure for the Trial of Misdemeanors Before United States Magistrate Judges~~ Rule 58 of the Federal Rules of Criminal Procedure. Misdemeanor cases filed by indictment or information shall be assigned to a full-time Magistrate Judge by automated random selection, with the exception of cases brought before the full-time Magistrate Judges sitting in Flagstaff and in Yuma, which shall be directly assigned. All other misdemeanors, except petty offense cases processed by the Central Violations Bureau, shall be assigned to any Magistrate Judge designated by those rules to try misdemeanors. Any Magistrate Judge may act in the absence or unavailability of the assigned Magistrate Judge. In the case of a Class A misdemeanor, if the defendant does not waive trial, judgment, and sentencing before a District Judge of the District Court and does not consent to those proceedings before the Magistrate Judge, the case shall be promptly referred to the Clerk of Court for assignment to a District Judge and the defendant shall be directed to appear before the assigned District Judge.

LOCAL RULES OF BANKRUPTCY APPEAL PROCEDURE

9th Cir. BAP R. 8001(a)-1. Notice of Appeal

LRBankr 8001-1

NOTICE OF APPEAL

Order Being Appealed. The appellant shall attach to the notice of appeal filed in bankruptcy court a copy of the entered judgment, order or decree from which the appeal was taken. If a 28 U.S.C. Sec. 158(c) election to have the appeal heard by the district court is filed by the appellant at the time of filing the notice of appeal, the bankruptcy court clerk shall transmit the appeal to the district court clerk. If such an election is filed by any other party with the clerk of the bankruptcy appellate panel within thirty days after service of the notice of appeal, the clerk of the bankruptcy appellate panel shall transfer the appeal to the district court. If the notice of appeal is filed before entry of the order being appealed, it is the appellant's duty to transmit to the district court clerk a copy of the judgment or order immediately upon entry.

Committee Notes: Generally, the Local Rules of Bankruptcy Appeal Procedure track the content and the numbering of the local rules of the Ninth Circuit Bankruptcy Appellate Panel.

9th Cir. BAP R. 8001(e)-1. Election to Transfer Appeal to

District Court

LRBankr 8001-2

ELECTION PROCEDURE FOR MOTION FOR LEAVE TO APPEAL

If the appellant moves for leave to appeal pursuant to FRBP 8003 and fails to file a separate notice of appeal concurrently with filing the motion for leave, the motion for leave will be treated as if it were a notice of appeal for purposes of calculating the time period for filing an election to transfer the appeal to the district court.

9th Cir. BAP Interim R. 8001(f). Manner of Taking Appeal;
Voluntary Dismissal; Certification to Court of Appeals

(NO LOCAL RULE)

9th Cir. BAP Interim R. 8003(d). Leave to Appeal

(NO LOCAL RULE)

9th Cir. BAP R. 8006-1. Transcripts

LRBankr 8006-1

TRANSCRIPTS

Any party submitting excerpts of the record shall include all transcripts necessary for adequate review in light of the standard of review applicable to the issues before the district court. The district court is required to consider only those portions of the transcript included in the excerpts of the record. If findings of fact and conclusions of law were made orally on the record, a transcript of those findings is mandatory.

9th Cir. BAP R. 8007(b)-1. Docketing Appeal and
Appellate Record

LRBankr 8007-1

DOCKETING APPEAL AND APPELLATE RECORD

As soon as the statement of issues, designation of record, and any designated transcripts are filed with the bankruptcy court, the bankruptcy court clerk, upon exercise of the 28 U.S.C. Sec. 158(c) election to have the appeal heard by the district court, shall transmit to the district court clerk a certificate that the record is complete and shall notify the parties of that transmittal unless the certificate has been filed with the bankruptcy appellate panel. The date the bankruptcy court clerk transmits the certificate that the record is complete shall constitute the date of entry of the appeal on the docket of the district court. The bankruptcy court clerk shall retain the record. The district court clerk may request a copy of the record from the bankruptcy court clerk.

9th Cir. BAP R. 8008(a)-1. Communications

(NO LOCAL RULE)

9th Cir. BAP R. 8008(a)-3. Fax Filing

(NO LOCAL RULE)

9th Cir. BAP R. 8009(a)-1. Briefs; Number of Copies;

Extensions of Time

LRBankr 8009-1

BRIEFS - TIME LIMITS AND NUMBER

(a) Scheduling Order. Upon entry of the appeal on the docket, the district court shall issue a scheduling order regarding submission of briefs. Parties shall file briefs within the time limits set forth in the scheduling order rather than the time limits set forth in FRBP 8009(a)(1), (2), and (3).

(b) Number. Upon the filing of a brief, a party shall also provide one paper copy for use by the District Judge to whom the case is assigned, bound separately from the excerpts of the record. At the direction of the district court, the parties may be required to provide additional copies.

(c) Motion for Extension of Time for Filing Brief.

(1) Requirements. A motion for extension of time to file a brief shall be filed within the time limit prescribed by these rules for the filing of such brief and shall be accompanied by a proof of service. The motion shall be supported by a declaration stating:

(A) When the brief was initially due;

(B) How many extensions of time, if any, have been granted;

(C) Reasons why this extension is necessary;

(D) The specific amount of time requested; and

(E) The position of the opponent(s) with respect to the motion or why the moving party has been unable to obtain a statement of such position(s).

(2) Consequences. Appellant's failure to file a brief timely may result in the dismissal of the appeal. A brief received after the due date will not be accepted for filing unless it is accompanied by a motion for an extension of time and the motion is granted. The district court has no obligation to consider a late brief. Sanctions may be imposed, such as the waiver of oral argument, monetary sanctions or dismissal.

LRBankr 8009-2

BRIEFS AND EXCERPTS OF THE RECORD

(a) Number and Form. Upon the filing of any excerpts of the record, a party shall also provide one paper copy for use by the District Judge to whom the case is assigned, bound separately from the briefs. The copy shall be reproduced on white paper by any duplicating process capable of producing a clearly legible image and be bound with a white cover. The cover of the excerpts shall contain the caption information specified by LRBankr 8010-1(a).

(b) Organization of Appendix. Documents in the excerpts shall be divided by tabs in the paper copy provided for use by the Judge. The pages of the excerpts shall be continuously paginated. The excerpts shall contain a complete table of contents listing the documents and identifying both the tab and page number where each document is located. If the excerpts have more than one volume, the table of contents shall also identify the volume in which each document is located.

9th Cir. BAP R. 8010(a)-1. Form of Briefs and Certification
Requirements

LRBankr 8010-1

BRIEFS - FORM AND CERTIFICATION REQUIREMENTS

(a) Form. Briefs shall comply with the form requirements of LRCiv 7.1 and shall contain the following cover information:

Name of Court;

Case numbers (District Court, Bankruptcy Court, and if applicable, adversary number(s));

Name of debtor;

Names of appellant(s) and appellee(s);

Title of document; and

Name, address, telephone number, email address, and bar number of counsel filing document.

(b) Certification as to Interested Parties. To enable the district judge to evaluate possible disqualification or recusal, all parties, other than governmental parties, shall attach to the inside back cover of their initial briefs, a list of all persons, associations of persons, firms, partnerships and corporations that have an interest in the outcome of the case. The certification should be in

substantially the following form:

Certification Required by Local Bankruptcy Rule 8010-1(b)

[DISTRICT COURT CASE NUMBER, DEBTOR'S NAME]

The undersigned certifies that the following parties have an interest in the outcome of this appeal. These representations are made to enable the district judge to evaluate possible disqualification or recusal [list the names of all such parties and identify their connection and interest]:

Signed

Dated

(c) **Certification of Related Cases.** The appellant shall attach as the last page of each copy of the opening brief a statement of all known related cases and appeals before the United States Court of Appeals, the BAP, or the district court. Appellee's answering brief shall contain appellee's certification of related cases. A related case is defined as one which involves substantially the same litigants, substantially the same factual pattern or legal issues, or

arises from a case previously heard by the district court.
The certification should be in substantially the following
form:

Certification Required by Local Bankruptcy Rule 8010-1(c)

[DISTRICT COURT NUMBER, DEBTOR'S NAME]

The undersigned certifies that the
following are known related cases and
appeals [list the case name, court and
status of all related cases and appeals]:

Signed

Dated

Committee Notes: Rule 8010-1 tracks 9th Circuit BAP Rule
8010(a)-1, except that the form requirements of LRCiv 7.1 are
adopted over the differing form requirements of the BAP Rule,
and colored brief covers are not required.

9th Cir. BAP R. 8010(c)-1. Length of Briefs

LRBankr 8010-2

LENGTH OF BRIEFS

Except with leave of the district court, the appellant's and appellee's initial briefs may not exceed seventeen (17) pages, and reply briefs may not exceed eleven (11) pages, exclusive of pages containing the table of contents, tables of citations and any addendum containing statutes, rules, regulations or similar materials.

Committee Notes: The page limits are those set by LRCiv 7.2(e) for civil motions generally and differ from those in the Ninth Circuit BAP.

9th Cir. BAP R. 8011(d)-1. Emergency Motions

LRBankr 8011-1

EMERGENCY MOTIONS

(a) **Form and Number.** An emergency motion must have a cover page bearing the legend "Emergency Motion" in large, bold type. Upon filing the motion, one paper copy must be provided for use by the District Judge to whom the case is assigned.

(b) **Contents.** The motion and supporting declaration(s) must set forth the facts showing the existence and nature of the alleged immediate and irreparable harm.

(c) **Appendix.** An emergency motion must be accompanied by an appendix containing: (1) a conformed copy of the notice of appeal, and (2) a copy of the entered judgment, order or decree from which the appeal was taken. If the emergency motion concerns a stay pending appeal, the appendix must also contain: (1) a conformed copy of the bankruptcy court's order denying or granting the stay and any explanation by the bankruptcy court of its ruling, or a declaration explaining why such a copy is unavailable; and (2) copies of all documents regarding the stay filed in bankruptcy court.

(d) **Service.** The motion and appendix must be accompanied by a proof of service showing service on all parties.

9th Cir. BAP R. 8011(e)-1. Delegation of Authority

to Act on Motions

(NO LOCAL RULE)

9th Cir. BAP R. 8012-1. Oral Argument

LRBankr 8012-1

ORAL ARGUMENT

Unless otherwise directed by the district court, a party desiring oral argument shall request it by placing "Oral Argument Requested" immediately below the title of the brief. If oral argument is granted, notice will be given in a manner directed by the district court.

9th Cir. BAP R. 8013-1. Disposition of Appeal

(NO LOCAL RULE)

9th Cir. BAP R. 8014-1. Costs

LRBankr 8014-1

COSTS

Costs under FRBP 8014 are taxed by filing a bill of costs with the bankruptcy court clerk.

9th Cir. BAP R. 8018(b)-1. Silence of Local Rules

LRBankr 8018-1

SILENCE OF LOCAL RULES OF BANKRUPTCY APPEAL PROCEDURE

In cases where these Local Rules of Bankruptcy Appeal Procedure and the FRBP are silent as to a particular matter of practice relating to a bankruptcy appeal, the district court may apply the Rules of the United States Court of Appeals for the Ninth Circuit and the Federal Rules of Appellate Procedure.

9th Cir. BAP R. 8018-2. Citation to Rules

LRBankr 8018-2

CITATION TO LOCAL RULES OF BANKRUPTCY APPEAL PROCEDURE

Parties shall cite these Local Rules of Bankruptcy Appeal

Procedure as:

"LRBankr".

LRBankr 8019-1

SUSPENSION OF LOCAL RULES OF BANKRUPTCY APPEAL PROCEDURE

Upon application, or upon the district court's own motion, any judge of the district court may suspend any of these Local Rules of Bankruptcy Appeal Procedure for good cause shown.

9th Cir. BAP R. 8070-1. Dismissal for Failure to Prosecute

LRBankr 8020-1

DISMISSAL FOR FAILURE TO PROSECUTE

When an appellant fails to file an opening brief timely, or otherwise fails to comply with rules or orders regarding processing the appeal, the district court, after notice, may enter an order dismissing the appeal.

9th Cir. BAP R. 9001-1. Definitions

(NO LOCAL RULE)

9th Cir. BAP R. 9010-1. Attorneys-Duties, Withdrawal,

Substitution

(NO LOCAL RULE)

9th Cir. BAP R. 9010-2. Pro Se Parties

(NO LOCAL RULE)