

PROCESSING OF APPEALS

(8/30/07)

Please observe the following, pursuant to 28 USC 1930 and the Appendix thereto; Bankruptcy Rules 8001, 8002, 8003, 8004, 8006 and 8007; Local Rules 8004-1, 8007-1 and 8016-1; and established local practice in the Bankruptcy Court and District Court. (NOTE: *CM/ECF* cases are those assigned to the Court's Electronic Case Filing System.)

1. *How Commenced; Deadline for Filing:* An appeal is commenced by the filing of a notice of appeal from a final order, or a notice of appeal and motion for leave to appeal from an interlocutory order. (An interlocutory order is a provisional order which does not finally settle a matter.) The notice of appeal (and motion for leave to appeal, if applicable) must be filed electronically in CM/ECF cases; otherwise, an **original plus 3 copies** of the notice of appeal must be filed, generally within 10 days of the date of entry of the order appealed from. A cross appeal may be filed by an appellee within 10 days of the filing of the notice of appeal. The notice of appeal (or cross appeal) must be accompanied by a **Civil Cover Sheet** (required by District Court). The time for filing may be extended under certain circumstances.
2. *Filing Fee:* A fee of \$255 is due upon filing of a notice of appeal or cross appeal from a final judgment, order or decree. A fee of \$5 is due upon filing of a notice of appeal from an interlocutory order or decree.
3. *Service of Notice:* Unless the appellant has already served notice of the filing of the notice of appeal (as evidenced by a certificate of service), the appellant must, in CM/ECF cases, provide the Clerk with the e-mail address of each party to be served; in non-CM/ECF cases, or for parties in CM/ECF cases who are not equipped to receive e-mail notification, the appellant must provide the Clerk with sufficient copies of the notice and address labels for all such parties to be served.
4. *Leave to Appeal:* The response to a motion for leave to appeal from an interlocutory order may be filed by an adverse party within 10 days after service of the motion. When the time for filing an answer has expired, the notice of appeal, the motion for leave to appeal and any answer thereto will be transmitted by the Clerk to the District Court. Further processing of the appeal, including designation of the record on appeal (*see below*), will be held in abeyance pending determination of the motion. The appeal will be TERMINATED if leave to appeal is denied.
5. *Appellant's Designation:* Appellant's designation of record on appeal and statement of issues to be presented on appeal are due within ten (10) days of the date of filing the **later** of the following, as applicable: (a) the notice of appeal; (b) entry of an order granting leave to appeal; or (c) entry of an order disposing of the last timely motion outstanding of a type specified in Bankruptcy Rule 8002(b). A copy of the designation and statement shall be served by the appellant on the appellee. In non-CM/ECF cases, an original plus three copies of the designation are to be filed.

6. Appellee's Designation: Within ten (10) days after service of the appellant's designation and statement, the appellee may file and serve on the appellant a designation of additional items to be included in the record on appeal. In non-CM/ECF cases, an original plus three copies of the designation are to be filed.
7. Copy of Record: In non-CM/ECF cases, each party who has filed a designation must provide this office with a copy of the items designated. In CM/ECF cases, designated items will presumably appear as PDF attachments to docket entries.
8. Transcripts: If the record designated by any party includes a transcript of any proceeding or a part thereof, the party shall, immediately after filing the designation, deliver to the reporter and file with the clerk a written request for the transcript and make satisfactory arrangements for payment of its cost.

CM/ECF Cases: Designated transcripts must be provided to this office in PDF format.

9. Completion and Transmittal of Record: It is the duty of the parties to insure that a record on appeal is complete. An incomplete record will otherwise be transmitted, for disposal as the District Court shall determine. The Court sets a deadline for transmission of the record of thirty (30) days from the *earlier* of the filing with the Court of the appellant's designation of record, or from the deadline for such filing. Upon receipt of the record, District Court will assign the matter to a judge, assign a case number and promptly notify the Bankruptcy Court and all parties to the appeal as to the date the appeal was docketed. If prior to transmittal a party to the appeal moves in District Court for a preliminary hearing, at the request of any party to the appeal a copy of the parts of the record as any such party shall designate will be transmitted to District Court.
10. Remand: If District Court remands an action for further proceedings, a motion for such further proceedings is to be made by the appropriate party within 20 days of the remand.
11. ECF Registration: In CM/ECF cases, all documents must be filed electronically, both in the Bankruptcy Court and, once the record has been transmitted, in the District Court. Registration is required at both Courts. For information on ECF registration in the Bankruptcy Court, please visit:

www.nyeb.uscourts.gov/ecf_training_guide.html

For information on ECF registration in the District Court, please visit:

www.nyed.uscourts.gov/CM_ECF/Attorney_Registration/attorney_registration.html

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

CIVIL COVER SHEET

This form is REQUIRED for the use of the Clerk of Court for the purpose of initiating the civil docket sheet.

IN RE: Bankruptcy Case No. _____ Adv. Pro. No. (if applicable) _____

Bankruptcy Appeal

APPELLANTS

APPELLEES

ATTORNEYS (FIRM NAME, ADDRESS, TEL. NO.)

ATTORNEYS (IF KNOWN)

BASIS OF JURISDICTION: Federal Question

CAUSE OF ACTION - 28:1334 Bankruptcy Appeal (*Write brief statement of cause.*)

NATURE OF SUIT: 422 Bankruptcy Appeal (801)

RELATED CASE(S) IN DISTRICT COURT, IF ANY

DISTRICT JUDGE _____

DOCKET NUMBER _____

CIVIL CASES ARE DEEMED RELATED IF PENDING CASE INVOLVED:

- 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT
- 2. SAME ISSUE OF FACT OR GROWS OUT OF THE SAME TRANSACTION
- 3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT COPYRIGHT OR TRADEMARK

Date: _____

Signature of Attorney of Record: _____
[or Appellant Pro Se]

FOR COURT USE ONLY

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

CIVIL COVER SHEET, Bankruptcy Appeal (cont'd)

Did the cause of action arise in Nassau or Suffolk County? _____

If YES, please indicate which county: _____

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

YES

NO

Are you currently the subject of any disciplinary action(s) in this or any other state or federal court?

YES (If yes, please explain)

NO

Please provide your bar code and e-mail address below. Your bar code consists of the initials of your first and last name and the last four digits of your social security number, or any other four-digit number registered by the attorney with the Clerk of Court. This information must be provided pursuant to local rule 11.1(b) of the local civil rules.

Attorney Bar Code: _____

E-Mail Address: _____