

be taxed by the clerk as costs of the appeal in favor of the party entitled to costs under this rule.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is an adaptation of Rule 39(a), (c) and (e) of the F.R.App.P. Under this rule all costs are taxed by the clerk of the bankruptcy court.

Rule 8015. Motion for Rehearing

Unless the district court or the bankruptcy appellate panel by local rule or by court order otherwise provides, a motion for rehearing may be filed within 14 days after entry of the judgment of the district court or the bankruptcy appellate panel. If a timely motion for rehearing is filed, the time for appeal to the court of appeals for all parties shall run from the entry of the order denying rehearing or the entry of subsequent judgment.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Mar. 26, 2009, eff. Dec. 1, 2009.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This is an adaptation of the first sentence of Rule 40(a) F.R.App.P. The filing of a motion for rehearing does not toll the time for taking an appeal to the court of appeals from the district court or the bankruptcy appellate panel. Appeals from a district court or a bankruptcy appellate panel are to the appropriate court of appeals. Under Rule 4(a)(4) F.R.App.P. the filing of post-trial motions in the district court has the effect of vitiating any prior notice of appeal and, on the district court's disposition of those post-trial motions, a new appeal period starts. Rule 4 F.R.App.P. does not, however, contain any provision which stays or otherwise alters the time for taking an appeal to the court of appeals when a motion for rehearing is filed under Rule 8015 with the district court or bankruptcy appellate panel.

NOTES OF ADVISORY COMMITTEE ON RULES—1987
AMENDMENT

The amendment, which is derived from Rule 8002(b), Rule 4(a)(4) F.R.App.P., and Rule 11.1 Sup.Ct.R., clarifies the effect of the filing of a timely motion for rehearing. If a timely motion is filed, the appeal period to the court of appeals begins to run on the entry of an order denying the motion or the entry of a subsequent judgment.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 21-day periods
- 20-day periods become 28-day periods
- 25-day periods become 35-day periods

Rule 8016. Duties of Clerk of District Court and Bankruptcy Appellate Panel

(a) ENTRY OF JUDGMENT. The clerk of the district court or the clerk of the bankruptcy appellate panel shall prepare, sign and enter the judgment following receipt of the opinion of the court or the appellate panel or, if there is no opinion, following the instruction of the court or the appellate panel. The notation of a judgment

in the docket constitutes entry of judgment.

(b) NOTICE OF ORDERS OR JUDGMENTS; RETURN OF RECORD. Immediately on the entry of a judgment or order the clerk of the district court or the clerk of the bankruptcy appellate panel shall transmit a notice of the entry to each party to the appeal, to the United States trustee, and to the clerk, together with a copy of any opinion respecting the judgment or order, and shall make a note of the transmission in the docket. Original papers transmitted as the record on appeal shall be returned to the clerk on disposition of the appeal.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Subdivision (a) of this rule is adapted from Rule 36 F.R.App.P. Subdivision (b) is similar to subdivisions (c) and (d) of Rule 45 F.R.App.P.

NOTES OF ADVISORY COMMITTEE ON RULES—1991
AMENDMENT

Subdivision (b) is amended to enable the United States trustee to monitor the progress of the case. The requirements of this subdivision apply to an order of the district court or bankruptcy appellate panel staying its judgment pending appeal to the court of appeals pursuant to Rule 8017(b).

Rule 8017. Stay of Judgment of District Court or Bankruptcy Appellate Panel

(a) AUTOMATIC STAY OF JUDGMENT ON APPEAL. Judgments of the district court or the bankruptcy appellate panel are stayed until the expiration of 14 days after entry, unless otherwise ordered by the district court or the bankruptcy appellate panel.

(b) STAY PENDING APPEAL TO THE COURT OF APPEALS. On motion and notice to the parties to the appeal, the district court or the bankruptcy appellate panel may stay its judgment pending an appeal to the court of appeals. The stay shall not extend beyond 30 days after the entry of the judgment of the district court or the bankruptcy appellate panel unless the period is extended for cause shown. If before the expiration of a stay entered pursuant to this subdivision there is an appeal to the court of appeals by the party who obtained the stay, the stay shall continue until final disposition by the court of appeals. A bond or other security may be required as a condition to the grant or continuation of a stay of the judgment. A bond or other security may be required if a trustee obtains a stay but a bond or security shall not be required if a stay is obtained by the United States or an officer or agency thereof or at the direction of any department of the Government of the United States.

(c) POWER OF COURT OF APPEALS NOT LIMITED. This rule does not limit the power of a court of appeals or any judge thereof to stay proceedings during the pendency of an appeal or to suspend, modify, restore, or grant an injunction during the pendency of an appeal or to make any order appropriate to preserve the status quo or the effectiveness of the judgment subsequently to be entered.

(As amended Mar. 26, 2009, eff. Dec. 1, 2009.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from Rule 62 F.R.Civ.P. and Rule 41 F.R.App.P.

Subdivision (a) accords to the parties to an appeal 10 days within which to decide whether to pursue an appeal to the court of appeals. In ordinary civil litigation there is a similar opportunity. Rule 62(a) F.R.Civ.P. automatically stays enforcement of a district court's judgment in a civil action and Rule 41(a) F.R.App.P. provides that the mandate of the court of appeals shall not issue for 21 days, unless the court otherwise directs. The district court or bankruptcy appellate panel may reduce the 10 day period of this subdivision.

Subdivision (b) vests in the district courts and the bankruptcy appellate panels the same authority the courts of appeals have under Rule 41(b) F.R.App.P. to stay their judgments pending appeal. Perfection of an appeal to the court of appeals while a stay entered by the district court or bankruptcy appellate panel is in effect results in the automatic continuation of that stay during the course of the appeal in the court of appeals.

Subdivision (c) is the same as Rule 62(g) F.R.Civ.P.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 21-day periods
- 20-day periods become 28-day periods
- 25-day periods become 35-day periods

Rule 8018. Rules by Circuit Councils and District Courts; Procedure When There is No Controlling Law

(a) LOCAL RULES BY CIRCUIT COUNCILS AND DISTRICT COURTS.

(1) Circuit councils which have authorized bankruptcy appellate panels pursuant to 28 U.S.C. §158(b) and the district courts may, acting by a majority of the judges of the council or district court, make and amend rules governing practice and procedure for appeals from orders or judgments of bankruptcy judges to the respective bankruptcy appellate panel or district court consistent with—but not duplicative of—Acts of Congress and the rules of this Part VIII. Local rules shall conform to any uniform numbering system prescribed by the Judicial Conference of the United States. Rule 83 F.R.Civ.P. governs the procedure for making and amending rules to govern appeals.

(2) A local rule imposing a requirement of form shall not be enforced in a manner that causes a party to lose rights because of a non-willful failure to comply with the requirement.

(b) PROCEDURE WHEN THERE IS NO CONTROLLING LAW. A bankruptcy appellate panel or district judge may regulate practice in any manner consistent with federal law, these rules, Official Forms, and local rules of the circuit council or district court. No sanction or other disadvantage may be imposed for noncompliance with any requirement not in federal law, federal rules, Official Forms, or the local rules of the circuit council or district court unless the alleged violator has been furnished in the particular case with actual notice of the requirement.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 27, 1995, eff. Dec. 1, 1995.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is similar to Rule 47 F.R.App.P. and Rule 83 F.R.Civ.P. Local rules governing procedure before the bankruptcy courts may be promulgated under Rule 9028.

NOTES OF ADVISORY COMMITTEE ON RULES—1987
AMENDMENT

Rule 83 F.R.Civ.P. was amended in August 1985 to require greater participation by the public in the rule making process. The amendment to Rule 8018 incorporates Rule 83 F.R.Civ.P. Under 28 U.S.C. §158(b)(2), appeals may be taken to a bankruptcy appellate panel only if the district court so authorizes. If a district court does not authorize appeals to the bankruptcy appellate panel, appeals will be to the district court. This rule is amended to authorize district courts to promulgate rules for appeals.

NOTES OF ADVISORY COMMITTEE ON RULES—1995
AMENDMENT

The amendments to this rule conform to the amendments to Rule 9029. See Committee Note to the amendments to Rule 9029.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subd. (a)(1), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 8019. Suspension of Rules in Part VIII

In the interest of expediting decision or for other cause, the district court or the bankruptcy appellate panel may suspend the requirements or provisions of the rules in Part VIII, except Rules 8001, 8002 and 8013, and may order proceedings in accordance with the direction.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from Rule 2 F.R.App.P.

Rule 8020. Damages and Costs for Frivolous Appeal

If a district court or bankruptcy appellate panel determines that an appeal from an order, judgment, or decree of a bankruptcy judge is frivolous, it may, after a separately filed motion or notice from the district court or bankruptcy appellate panel and reasonable opportunity to respond, award just damages and single or double costs to the appellee.

(Added Apr. 11, 1997, eff. Dec. 1, 1997.)

NOTES OF ADVISORY COMMITTEE ON RULES—1997

This rule is added to clarify that a district court hearing an appeal, or a bankruptcy appellate panel, has the authority to award damages and costs to an appellee if it finds that the appeal is frivolous. By conforming to the language of Rule 38 F.R.App.P., this rule recognizes that the authority to award damages and costs in connection with frivolous appeals is the same for district courts sitting as appellate courts, bankruptcy appellate panels, and courts of appeals.

GAP Report on Rule 8020. No changes to the published draft.

PART IX—GENERAL PROVISIONS

Rule 9001. General Definitions

The definitions of words and phrases in §§101, 902, 1101, and 1502 of the Code, and the rules of