

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

**PUBLIC NOTICE**

**AMENDMENTS AND ADDITIONS TO LOCAL RULE 203  
OF THE UNITED STATES DISTRICT COURT**

The United States District Court for the District of Massachusetts is considering and is publishing for comment a modification of Local Rule 203 – Bankruptcy Appeals. These rules are numbered to correspond to the pertinent section of the Federal Rules of Bankruptcy Procedure. All rules included in this notice are new and therefore, a redline version is not available.

Copies of the proposed rules are attached to this notice and are available for inspection in the Offices of the Clerk: in Suite 2300 of the John Joseph Moakley United States Courthouse, 1 Courthouse Way, Boston, Massachusetts; on the 1st floor of the United States Courthouse, 300 State Street, Springfield, Massachusetts; and on the 5th floor of the Harold D. Donohue Federal Building, 595 Main Street, Worcester, Massachusetts. It may also be found on the court's web site at

[www.mad.uscourts.gov](http://www.mad.uscourts.gov)

Those wishing to comment on the proposed amendment to the Local Rules for the District of Massachusetts may do so in writing or by email. All comments must be received on or before August 21, 2015 and should be addressed to:

Robert M. Farrell, Clerk of Court  
United States District Court  
United States Courthouse - Suite 2-300  
Boston, MA 02210

or by email to: [rules@mad.uscourts.gov](mailto:rules@mad.uscourts.gov)

This public notice and the proposed amendment have been posted to the “Announcements” and “Rules” pages of the court's web site at <http://www.mad.uscourts.gov>.

July 23, 2015

/s/ Robert M. Farrell  
Clerk of Court

**Proposed Amendments to United States District Court, District of Massachusetts  
Local Rule 203 - Bankruptcy Appeals**

**Rule 203.8001. Scope of Rules; Method of Transmission**

**(a) General Scope.** Part VIII of the Federal Rules of Bankruptcy Procedure (Fed. R. Bankr. P.) governs appeals of bankruptcy court orders to the United States District Court. Pursuant to Fed. R. Civ. P. 83 and Fed. R. Bankr. P. 8026, this rule and its subsections govern the practice of bankruptcy appeals before United States District Court for the District of Massachusetts. These rules are not intended to restrict the District Court's discretion as to any aspect of an appeal from a bankruptcy court's order. The bankruptcy court clerk shall enclose a copy of these rules with the notice of appeal given to each party appealing to the District Court in accordance with Fed. R. Bankr. P. 8003(c); provided, however, that failure of the clerk to enclose a copy of this rule shall not suspend its operation.

**(b) Method of Transmitting Documents.** LR, D. Mass.5.4, Filing and Service By Electronic Means, shall apply to bankruptcy appeals to the District Court, unless otherwise ordered by the United States District Judge assigned to the appeal. Pro se parties shall be exempt from filing documents electronically. The District Court clerk is authorized to consider a request to accept documents filed by hand or transmitted via facsimile in emergency circumstances. If the District Court clerk authorizes such service, the documents shall be served on all interested parties within 24 hours after filing in the method directed by the District Court clerk.

**Rule 203.8003. Appeal as of Right.**

**(a) Filing the Notice of Appeal.** A notice of appeal shall conform to Official Bankruptcy Form 17A and shall be filed in the bankruptcy court with the required filing fee. In addition, the appellant shall include the names and addresses of all parties to the judgment and the names, addresses, telephone numbers, and email addresses of their attorneys, if any. In the event an appellant fails timely to file a notice of appeal or an appellant fails to pay the filing fee within 14 days after filing the notice of appeal, or within 14 days after denial of a motion to waive the filing fee, the bankruptcy court is authorized to dismiss the appeal.

**(b) Transmitting the Appeal.** Upon filing of a notice of appeal with a statement of election to the District Court, the bankruptcy court clerk shall promptly transmit the notice of appeal to the District Court. If an appellee timely elects to have the District Court hear the appeal after it has been transmitted to the Bankruptcy Appellate Panel ("BAP"), upon the filing of the election with the BAP, the clerk of the BAP shall promptly transmit the appeal to the District Court. Upon receipt of the notice of appeal, the District Court clerk shall immediately docket the appeal.

**Rule 203.8004. Appeal by Leave—How Taken.**

**(a) Notice of Appeal and Motion for Leave to Appeal.** In any appeal from an interlocutory order or decree of a bankruptcy court, a party must file with the notice of appeal a motion for leave to appeal setting forth the facts, issues, and the reasons why leave to appeal should be granted.

**(b) Failure to File a Motion with a Notice of Appeal.** If an appellant timely files a notice of appeal under this rule, but does not file with the notice a motion for leave the appeal, the District Court may order the appellant to file a motion for leave to appeal within 14 days or other specified time, or may treat the notice of appeal as the motion for leave to appeal and either grant or deny it.

**Local Rule 203.8007. Stay Pending Appeal**

**(a) Initial Motion in the Bankruptcy Court.** Any motion for stay pending appeal shall be presented promptly and shall be filed initially in the bankruptcy court. The motion for stay pending appeal shall comply with the provisions of Fed. R. Bankr. P. 8007.

**(b) Motion in the District Court.** If the movant seeks immediate relief in the District Court on a motion for stay pending appeal after denial of a motion for stay by the bankruptcy court, the motion shall conform to Fed. R. Bankr. P. 8013(d).

**(c) Appendix.** A motion for stay pending appeal filed in the District Court shall be accompanied by an appendix containing the following:

- a. a copy of the bankruptcy court's order denying the motion for stay; and
- b. copies of any documents filed in the bankruptcy court relevant to the motion for stay.

**Local Rule 203.8008. Indicative Rulings.**

**(a) Relief Pending Appeal.** In the event the parties have settled all issues in an appeal, they shall file a joint notice of settlement with the District Court which shall contain a statement as to whether the matter must be remanded to the bankruptcy court for consideration of a motion to compromise under Fed. R. Bankr. P. 9019. The District Court shall remand the matter to the bankruptcy court for further proceedings in the event the settlement or compromise requires approval by the bankruptcy court under Fed. R. Bankr. P. 9019.

**(b) Notice to the Court where the Appeal is Pending.** The parties to a settlement shall promptly notify the District Court of the disposition in the bankruptcy court of any motion to compromise that relates to an appeal and was the subject of a remand order.

**Local Rule 203.8009. Record on Appeal.**

(a) **Motion to extend time.** A motion to extend any deadlines set forth in Fed. R. Bankr. P. 8009 shall be filed in and determined by the bankruptcy court.

(b) **Correcting or Modifying the Record.** Any dispute relating to the accuracy of the record must be determined by the bankruptcy court. A party who seeks correction or modification of the record shall file a motion with the bankruptcy court prior to the deadline for completing the record under Fed. R. Bankr. P. 8009.

**Local Rule 203.8010. Completing and Transmitting the Record on Appeal**

(a) **Bankruptcy Court Clerk's Duties.** It is the duty of the parties to designate the record on appeal in accordance with Fed. R. Bankr. P. 8009. The bankruptcy court clerk shall assemble and transmit the record on appeal when it is complete, or send a notice to the District Court clerk that the record is available electronically.

(b) **Incomplete Record.** If, after the expiration of the deadlines set forth in Fed. R. Bankr. P. 8009, the record is incomplete, the bankruptcy court clerk shall transmit to the District Court clerk a Certificate of Incomplete Record. Thereafter, the District Court may dismiss the appeal or order the deficiency cured and upon completion of the record within the period allowed by the District Court, the bankruptcy court clerk shall send the completed record to the District Court clerk.

**Local Rule 203.8013. Motions.**

(a) **Written Motion Required; Objections.** Any motion shall be in writing and filed with the District Court clerk and served on interested parties. Any objection to a motion shall be filed and served within 7 days after the filing of the motion.

(b) **Emergency Motions.** Any motion seeking expedited or immediate relief shall contain the word "emergency" in the title of the motion and shall comply with Fed. R. Bankr. P. 8012.

(c) **Motions to Dismiss the Appeal.** A motion to dismiss an appeal shall state the factual and legal grounds in support of dismissal. The District Court shall determine any motion to dismiss an appeal, except that the bankruptcy court may determine a motion to dismiss an appeal on the ground that it was untimely filed. Motions to dismiss an appeal on the grounds of lateness shall be filed in the bankruptcy court. All other motions to dismiss an appeal shall be filed in and determined by the District Court.

(d) **Determination of Appeal.** At any time, on motion of any appellant, any appellee, or sua sponte, the District Court may: (1) dismiss the appeal if it lacks appellate jurisdiction; (2) dismiss the appeal, grant any other request for relief, or affirm and enforce the judgment, order, or decree

below if it appears that no substantial question is presented; or (3) reverse in the case of obvious error.

**Local Rule 203.8018. Filing and Serving Briefs**

**(a) Time for Filing Briefs.** The briefing schedule set forth by Fed. R. Bankr P. 8018 may be altered only by order of the District Court. All briefs which contain statements regarding background facts shall be supported by citation to the appendix, according to the page numbering of the appendix. In the event a brief, appendix or other document does not meet the requirements of this rule or the Fed. R. Bankr. P., the District Court clerk has discretion to accept or reject such document. If the District Court clerk does not timely receive appellant's brief, the clerk shall forthwith provide the district judge to whom the appeal is assigned with a proposed order for dismissal of the appeal.

**Local Rule 203.8019. Oral Argument**

**(a) Request for Oral Argument.** In their briefs, the parties shall include a statement setting forth each party's position on oral argument and if oral argument is requested. Oral argument may be waived upon the written stipulation of the parties.

**(b) Scheduling of Oral Argument.** Notwithstanding the request of the parties, the District Judge retains discretion to determine whether oral argument shall be scheduled.