

Filed at 9:30 A.M.

Filed at 12:00 P.M.

APR 2 1994  
*D. Kenneth*  
DEPUTY CLERK, U. S. DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA

DEC 23 1992  
*William A. B...*  
Deputy Clerk, U.S. District Court

IN RE: AUTHORITY OF BANKRUPTCY JUDGES TO ACT IN BANKRUPTCY CASES

(a) Emergency Resolution

The purpose of this rule is to supplement existing law and all rules heretofore adopted in respect to the authority of the bankruptcy judges of this district to act in bankruptcy cases and proceedings until Congress enacts appropriate remedial legislation in response to the Supreme Court's decision in Northern Pipeline Construction Co. v. Marathon Pipe Line Co., \_\_\_ U.S. \_\_\_, 102 S.Ct. 2858 (1982), or until March 31, 1984, whichever first occurs.

The judges of the district court find that exceptional circumstances exist. These circumstances include: (1) the unanticipated unconstitutionality of the grant of power to bankruptcy judges in section 241(a) of Public Law 95-598; (2) the clear intent of Congress to refer bankruptcy matters to bankruptcy judges; (3) the specialized expertise necessary to the determination of bankruptcy matters; and (4) the administrative difficulty of the district courts' assuming the existing bankruptcy caseload on short notice.

Therefore, the orderly conduct of the business of the court requires this referral of bankruptcy cases to the bankruptcy judges.

(b) Filing of bankruptcy papers

The bankruptcy court constituted by § 404 of Public Law 95-598 shall continue to be known as the United States Bankruptcy Court of this district. The Clerk of the Bankruptcy Court is hereby designated to maintain all files in bankruptcy cases and adversary proceedings. All papers in cases or proceedings arising under or related to Title 11 shall be filed with the Clerk of the Bankruptcy Court regardless of whether the case or proceeding is before a bankruptcy judge or a judge of the district court, except that a judgment by the district judge shall be filed in accordance

with Rule 921 of the Bankruptcy Rules.

(c) Reference to Bankruptcy Judges

(1) All cases under Title 11 and all civil proceedings arising under Title 11 or arising in or related to cases under Title 11 are referred to the bankruptcy judges of this district.

(2) The reference to a bankruptcy judge may be withdrawn by the district court at any time on its own motion or on timely motion by a party. A motion for withdrawal of reference shall not stay any bankruptcy matter pending before a bankruptcy judge unless a specific stay is issued by the district court. If a reference is withdrawn, the district court may retain the entire matter, may refer part of the matter back to the bankruptcy judge, or may refer the entire matter back to the bankruptcy judge with instructions specifying the powers and functions that the bankruptcy judge may exercise. Any matter in which the reference is withdrawn shall be reassigned to a district judge in accordance with the court's usual system for assigning civil cases.

(3) Referred cases and proceedings may be transferred in whole or in part between bankruptcy judges within the district without approval of a district judge.

(d) Powers of Bankruptcy Judges

(1) The bankruptcy judges may perform in referred bankruptcy cases and proceedings all acts and duties necessary for the handling of those cases and proceedings except that the bankruptcy judges may not conduct:

- (A) a proceeding to enjoin a court;
- (B) a proceeding to punish a criminal contempt --
  - (i) not committed in the bankruptcy judge's actual presence; or
  - (ii) warranting a punishment of imprisonment;
- (C) an appeal from a judgment, order, decree, or decision of a United States bankruptcy judge; or
- (D) jury trials.

Those matters which may not be performed by a bankruptcy judge shall be transferred to a district judge.

(2) Except as provided in (d) (3), orders and judgments of bankruptcy judges shall be effective upon entry by the Clerk of the Bankruptcy Court, unless stayed by the bankruptcy judge or a district judge.

(3) (A) Related proceedings are those civil proceedings that, in the absence of a petition in bankruptcy, could have been brought in a district court or a state court. Related proceedings include, but are not limited to, claims brought by the estate against parties who have not filed claims against the estate. Related proceedings do not include: contested and uncontested matters concerning the administration of the estate; allowance of and objection to claims against the estate; counterclaims by the estate in whatever amount against persons filing claims against the estate; orders in respect to obtaining credit; orders to turn over property of the estate; proceedings to set aside preferences and fraudulent conveyances; proceedings in respect to lifting of the automatic stay; proceedings to determine dischargeability of particular debts; proceedings to object to the discharge; proceedings in respect to the confirmation of plans; orders approving the sale of property where not arising from proceedings resulting from claims brought by the estate against parties who have not filed claims against the estate; and similar matters. A proceeding is not a related proceeding merely because the outcome will be affected by state law.

(B) In related proceedings the bankruptcy judge may not enter a judgment or dispositive order, but shall submit findings, conclusions, and a proposed judgment or order to the district judge, unless the parties to the proceeding consent to entry of the judgment or order by the bankruptcy judge.

(e) District Court Review

(1) A notice of appeal from a final order or judgment or proposed order or judgment of a bankruptcy judge or an application for leave to appeal an interlocutory order of a bankruptcy judge, shall be filed within 10 days of the date of entry of the judgment or order or of the lodgment of the proposed judgment or order. As modified by sections (e) (2A and B of this rule, the procedures

set forth in Part VIII of the Bankruptcy Rules apply to appeals of bankruptcy judges' judgments and orders and the procedures set forth in Bankruptcy Interim Rule 8004 apply to applications for leave to appeal interlocutory orders of bankruptcy judges. Modification by the district judge or the bankruptcy judge of time for appeal is governed by Rule 802 of the Bankruptcy Rules.

(2) (A) A district judge shall review:

- (i) an order or judgment entered under paragraph (d) (2) if a timely notice of appeal has been filed or if a timely application for leave to appeal has been granted;
- (ii) an order or judgment entered under paragraph (d) (2) if the bankruptcy judge certifies that circumstances require that the order or judgment be approved by a district judge, whether or not the matter was controverted before the bankruptcy judge or any notice of appeal or application for leave to appeal was filed; and
- (iii) a proposed order or judgment lodged under paragraph (d) (3), whether or not any notice of appeal or application for leave to appeal has been filed.

(B) In conducting review, the district judge may hold a hearing any may receive such evidence as appropriate and may accept, reject, or modify, in whole or in part, the order or judgment of the bankruptcy judge, and need give no deference to the findings of the bankruptcy judge. At the conclusion of the review, the district judge shall enter an appropriate order or judgment.

(3) When the bankruptcy judge certifies that circumstances require immediate review by a district judge of any matter subject to review under paragraph (e) (2), the district judge shall review the matter and enter an order or judgment as soon as possible.

(4) It shall be the burden of the parties to raise the issue of whether any proceeding is a related proceeding prior to the time of the entry of the order or judgment of the district

judge after review.

(f) Local Rules

In proceedings before a bankruptcy judge, the local rules of bankruptcy court shall apply. In proceedings before a judge of the district court, the local rules of the district court shall apply.

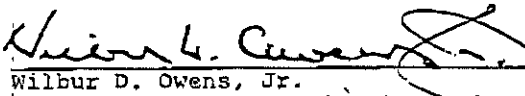
(g) Bankruptcy Rules and Title IV of Public Law 95-598

Courts of bankruptcy and procedure in bankruptcy shall continue to be governed by Title IV of Public Law 95-598 as amended and by the bankruptcy rules prescribed by the Supreme Court of the United States pursuant to 28 U.S.C. § 2075 and limited by SEC. 405(d) of the Act, to the extent that such Title and Rules are not inconsistent with the holding of Northern Pipeline Construction Co. v. Marathon Pipe Line Co., \_\_\_ U.S. \_\_\_, 102 S.Ct. 2858 (1982).

(h) Effective Date and Pending Cases

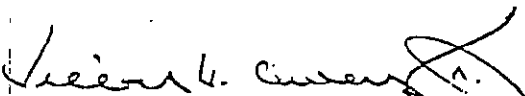
This rule is hereby adopted by all of the district judges of this district, and shall become effective December 25, 1982.

SO ORDERED, this 23rd day of December, 1982.

  
Wilbur D. Owens, Jr.  
Chief United States District Judge

The effective date of Public Law 95-598 having been extended by Congress on Friday, March 30, 1984, the within Rule is hereby AMENDED to continue in full force and effect until further order of the court.

SO ORDERED, this 31st day of March, 1984.

  
Wilbur D. Owens, Jr.  
Chief United States District Judge

In Re: AUTHORITY OF BANKRUPTCY JUDGES TO ACT IN  
BANKRUPTCY CASES.

This is to certify that I have this date mailed a copy  
of the within order filed on December 23, 1982 to:

Honorable Norman E. Zoller, Clerk  
U. S. Court of Appeals  
56 Forsyth St., N.W.  
Atlanta, GA 30303

The Honorable J. Robert Elliott  
United States District Judge  
Middle District of Georgia  
P. O. Box 2017  
Columbus, GA 31902

Honorable Algie M. Moseley, Jr.  
Judge, Bankruptcy Court  
P. O. Box 1540  
Columbus, GA 31902

Mr. C. V. Palmer, III  
Deputy Clerk, U. S. Dist. Court  
P. O. Box 124  
Columbus, GA 31902

Mr. Lundy Smith, Deputy Clerk  
U. S. District Court  
P. O. Box 68  
Valdosta, GA 31601

Ms. Betty Jones, Deputy Clerk  
U. S. District Court  
P. O. Box 1906  
Albany, GA 31702

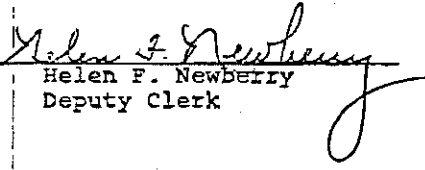
AND a copy was handed to:

Ms. Helen Berenthien, Clerk  
U. S. Bankruptcy Court

(Henry carried a copy to Judge  
Hershner)

Copy placed on the counter and  
copy posted on bulletin board  
in lobby.

This 27th day of December, 1982.

  
Helen F. Newberry  
Deputy Clerk

IN RE: AUTHORITY OF BANKRUPTCY JUDGES TO ACT IN BANKRUPTCY CASES.

This is to certify that I have this date mailed a copy of the within  
ORDER filed on April 2, 1984 to:

Honorable Spencer D. Mercer, Clerk  
U. S. Court of Appeals  
56 Forsyth St., N.W.  
Atlanta, GA 30303

The Honorable J. Robert Elliott  
United States District Judge  
Middle District of Georgia  
P. O. Box 2017  
Columbus, GA 31902

Honorable Algie M. Moseley, Jr.  
Judge, Bankruptcy Court  
P. O. Box 1540  
Columbus, GA 31902

Mr. C. V. Palmer, III  
Deputy Clerk, U. S. Dist. Court  
P. O. Box 124  
Columbus, GA 31902

Mr. J. Lundie Smith, Deputy Clerk  
U. S. District Court  
P. O. Box 68  
Valdosta, GA 31601

Miss Betty M. Jones, Deputy Clerk  
U. S. District Court  
P. O. Box 1906  
Albany, GA 31702

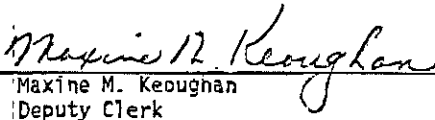
AND a copy was handed to:

Miss Helen Berenthien, Clerk  
U. S. Bankruptcy Court

The Hon. Robert F. Hershner  
Judge, Bankruptcy Court

Copy placed on the counter and  
Copy posted on bulletin board in lobby.

This 2nd day of April, 1984.

  
Maxine M. Keoughan  
Deputy Clerk