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U.S. DIST. COURT
MIDDLE DIST. OF LA.
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C. LEE DUPUIS
CLERK
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UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

ORDER AMENDING LOCAL RULES OF COURT

IT IS ORDERED that the Local Rules of Court are hereby AMENDED so as to add Rule 29, EMERGENCY RULE - BANKRUPTCY PROCEEDINGS, a copy of which is attached hereto.

Dated this 4 day of October, 1982.

John V. Parker

JOHN V. PARKER, CHIEF JUDGE
United States District Court
Middle District of Louisiana

Frank J. Polozola

FRANK J. POLOZOLA,
United States District Judge

10-6-82
AO-Director
Chief Clerk's Dir.
Clerk Bankruptcy
5th Circuit Executive
Atty General of U.S.
mas

RULE 29

(a) Emergency Rule - Bankruptcy Proceedings

The purpose of this rule is to convey to the bankruptcy judges of this district authority to act in bankruptcy cases and proceedings until the 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 the Bankruptcy Reform Act of 1978; (2) the clear intent of the 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, pursuant to 11 U.S.C. sec. 105, sections 404 and 405 of the Bankruptcy Act of 1978, Rules 53 and 83 of the Federal Rules of Civil Procedure, and Rules 513 and 927 of the Bankruptcy Rules, the orderly conduct of the business of the court requires this referral of bankruptcy cases to the bankruptcy judges.

(b) Reference to Bankruptcy Judges

(1) All cases under Title 11 and all civil proceedings 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(2) The reference to a bankruptcy judge may be withdrawn by the district court on its own motion or on timely motion by a party.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.

(c) Powers of Bankruptcy Judges and District Court Review

(1) The bankruptcy judges may perform in referred bankruptcy matters all acts and duties necessary for the handling of those matters and may conduct all proceedings except:

(A) a proceeding to enjoin a court;

(B) a proceeding to punish a criminal contempt;

(C) an appeal from a judgment, order, decree, or decision of a United States bankruptcy judge; or

(D) jury trials.

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

(3) In civil proceedings related to cases under Title 11 but not arising in or under Title 11, or wherever otherwise constitutionally required, judgments as defined in Rule 54(a) of the Federal Rules of Civil Procedure that would be appealable if rendered by a district judge and that do not result from a stipulation among the parties, shall not be effective and shall not be entered until the judgment has been signed by a district judge. In such proceedings, the bankruptcy judge shall submit findings, conclusions, and a proposed judgment to the district judge.

(4) Objections to an order or judgment entered under paragraph (2), or a proposed judgment lodged under paragraph (3) must be filed within 10 days after entry or lodgment thereof by the clerk. The time for filing objections may, for cause, be shortened by the bankruptcy judge or the district court.

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

(i) an order or judgment entered under paragraph (2) if a timely objection has been filed;

(ii) an order or judgment entered under paragraph (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 objection was filed; and

(iii) a proposed judgment lodged under paragraph (3), whether or not any objection has been filed.

(B) In conducting review, the district judge may hold a hearing and may receive such evidence as he deems 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.

(6) When the bankruptcy judge certifies that circumstances require immediate review by a district judge of any matter subject to review under paragraph (5), the district judge shall review the matter and enter an order or judgment as soon as possible.

(d) Effective Date and Pending Cases

This rule shall become effective October 5, 1982, and shall apply to all cases not governed by the Bankruptcy Act of 1898, as amended. Any bankruptcy matters pending on October 5, 1982 before a bankruptcy judge shall be deemed referred to that judge.