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FILED IN THE
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

OCT 4 - 1982

BRUCE REPKIN, CLERK
BY _____ DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

IN RE:)

EMERGENCY BANKRUPTCY RULE)

GENERAL ORDER

(a) Emergency Resolution

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 court's 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

1 (b) Reference to Bankruptcy Judges

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

5 (2) The reference to a bankruptcy judge may be withdrawn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 If a reference is withdrawn,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14 Any matter in which the reference is withdrawn shall be reassigned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

17 (c) Powers of Bankruptcy Judges and District Court Review

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

- 21 (A) a proceeding to enjoin a court;
22 (B) a proceeding to punish a criminal contempt;
23 (C) an appeal from a judgment, order, decree, or decision
24 of a United States bankruptcy judge; or
25 (D) jury trials.

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

29 (3) In civil proceedings related to cases under Title 11
30 but not arising in or under Title 11, or wherever otherwise consti-
31 tutionally required, judgments as defined in Rule 54(a) of the
32 Federal Rules of Civil Procedure that would be appealable if rendered

1 by a district judge and that do not result from a stipulation among
2 the parties, shall not be effective and shall not be entered until
3 the judgment has been signed by a district judge. In such proceedings,
4 the bankruptcy judge shall submit findings, conclusions and a pro-
5 posed judgment to the district judge.

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

11 (5) A district judge shall review:

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

14 (ii) an order or judgment entered under paragraph (2)
15 if the bankruptcy judge certifies that circumstances require that
16 the order or judgment be approved by a district judge, whether or
17 not the matter was controverted before the bankruptcy judge or
18 any objection was filed; and

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

21 In conducting review, the district judge may hold a hearing
22 and may receive such evidence as he deems appropriate and may accept,
23 reject, or modify, in whole or in part, the order or judgment of
24 the bankruptcy judge, and need give no deference to the findings
25 of the bankruptcy judge. At the conclusion of the review, the
26 district judge shall enter an appropriate order or judgment.

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

31 (d) Effective Date and Pending Cases

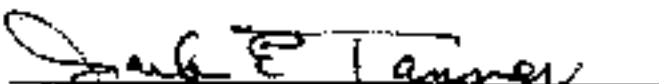
32 This rule shall become effective October 5, 1982, and shall

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

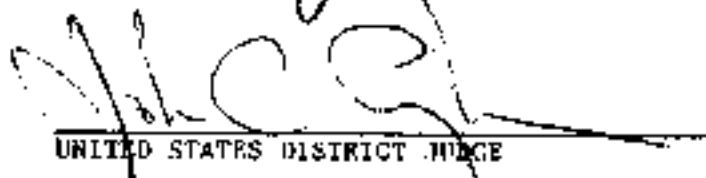
4 DATED this 4th day of October, 1982.

5
6 
7 Walter T. De Haven
8 CHIEF UNITED STATES DISTRICT JUDGE

9 
10 James S. [unclear]
11 UNITED STATES DISTRICT JUDGE

12 
13 Jack E. Tanner
14 UNITED STATES DISTRICT JUDGE

15 
16 Barbara J. Rottstein
17 UNITED STATES DISTRICT JUDGE

18 
19 John C. [unclear]
20 UNITED STATES DISTRICT JUDGE