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 WESTERN DISTRICT OF WASHINGTON
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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 supplement existing law and rules 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.

General Order
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1 (b) Filing of Bankruptcy Papers

2 The bankruptcy court constituted by §404 of Public Law 95-598
3 shall continue to be known as the United States Bankruptcy Court
4 of this district. The Clerk of the Bankruptcy Court is hereby
5 designated to maintain all files in bankruptcy cases and adversary
6 proceedings. All papers in cases or proceedings arising under or
7 related to Title 11 shall be filed with the Clerk of the
8 Bankruptcy Court regardless of whether the case or proceeding is
9 before a bankruptcy judge or a judge of the district court, except
10 that a judgment by the district judge shall be filed in accordance
11 with Rule 921 of the Bankruptcy Rules.

12 (c) Reference to Bankruptcy Judges

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

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17 withdrawn by the district court at any time on its own motion or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21 a reference is withdrawn, the district court may retain the entire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26 is withdrawn shall be reassigned to a district judge in accordance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

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

31 (d) Powers of Bankruptcy Judges

32 (1) The bankruptcy judges may perform in referred

1 bankruptcy cases and proceedings all acts and duties necessary for
2 the handling of those cases and proceedings except that the
3 bankruptcy judges may not conduct:

- 4 (A) A proceeding to enjoin a court;
5 (B) A proceeding to punish a criminal contempt --
6 (1) not committed in the bankruptcy judge's
7 actual presence; or
8 (ii) warranting a punishment of imprisonment.
9 (C) An appeal from a judgment, order, decree or
10 decision of a United States bankruptcy judge;
11 or
12 (D) Jury trials.

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

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

19 (3) (A) Related proceedings are those civil
20 proceedings that, in the absence of a petition in bankruptcy,
21 could have been brought in a district court or a state court.
22 Related proceedings include, but are not limited to, claims
23 brought by the estate against parties who have not filed claims
24 against the estate. Related proceedings do not include:
25 Contested and uncontested matters concerning the administration of
26 the estate; allowance of and objection to claims against the
27 estate; counterclaims by the estate in whatever amount against
28 persons filing claims against the estate; orders in respect to
29 obtaining filing claims against the estate; orders in respect to
30 obtaining credit; orders to turn over property of the estate;
31 proceedings to set aside preferences and fraudulent conveyances;
32 proceedings in respect to lifting of the automatic stay;

1 proceedings to determine dischargeability of particular debts;
2 proceedings to object to the discharge; proceedings in respect to
3 the confirmation of plans; orders approving the sale of property
4 where not arising from proceedings resulting from claims brought
5 by the estate against the parties who have not filed claims
6 against the estate; and similar matters. A proceeding is not a
7 related proceeding merely because the outcome will be affected by
8 state law.

9 (B) In related proceedings, and wherever the
10 bankruptcy judge determines that circumstances require that a
11 judgment or order be entered by a district judge, the bankruptcy
12 judge shall not enter a judgment or dispositive order, but shall
13 submit findings, conclusions and a proposed judgment or order to
14 the district judge, unless the parties to the proceeding consent
15 to entry of judgment or order by the bankruptcy judge.

16 (e) District Court Review

17 (1) A notice of appeal from a final order or judgment
18 or proposed order or judgment of a bankruptcy judge or an
19 application for leave to appeal an interlocutory order of a
20 bankruptcy judge, shall be filed within 10 days of the date of
21 entry of the judgment or order or of the lodgment of the proposed
22 judgment or order. As modified by sections (e)2(A) and (B) of
23 this rule, the procedures set forth in Part VIII of the Bankruptcy
24 Rules apply to appeals of bankruptcy judges' judgments and orders,
25 and the procedures set forth in Bankruptcy Interim Rule 8004 apply
26 to applications for leave to appeal interlocutory orders of
27 bankruptcy judges. Modification by the district judge or the
28 bankruptcy judge of time for appeal is governed by Rule 802 of the
29 Bankruptcy Rules.

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

- 31 (i) an order or judgment entered under para-
32 graph (d)(2) if a timely notice of appeal
has been filed or if a timely application
for leave to appeal has been granted;

1 (ii) an order or judgment entered under para-
2 graph (d)(2) if the bankruptcy judge
3 certifies that circumstances require that
4 the order or judgment be approved by a
5 district judge, whether or not the matter
6 was controverted before the bankruptcy
7 judge or any notice of appeal or
8 application for leave to appeal was filed;
9 and

10 (iii) a proposed order or judgment lodged under
11 paragraph (d)(3), whether or not any
12 notice of appeal or application for leave
13 to appeal has been filed.

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

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

26 (4) It shall be the burden of the parties to raise the
27 issue of whether any proceeding is a related proceeding prior to
28 the time of the entry of the order of judgment of the district
29 judge after review.

30 (f) Local Rules

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

1 of the district court, the local rules of the district court shall
2 apply.

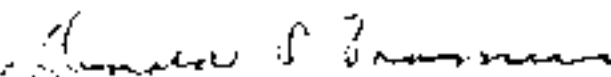
3 (g) Bankruptcy Rules and Title IV of Public Law 95-598
4 Courts of bankruptcy and procedure in bankruptcy shall
5 continue to be governed by Title IV of Public Law 95-598 as
6 amended and by the bankruptcy rules prescribed by the Supreme
7 Court of the United States pursuant to 28 U.S.C. §2075 and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


12 (h) Effective Date and Pending Cases

13 This rule shall become effective December 25, 1982, and shall
14 apply to all bankruptcy cases and proceedings not governed by the
15 Bankruptcy Act of 1898 as amended, and filed on or after October
16 1, 1979. Any bankruptcy matters pending before a bankruptcy judge
17 on December 25, 1982, shall be deemed referred to that judge.

18 DATED this 23 day of December, 1982.

19 
20 _____
21 CHIEF UNITED STATES DISTRICT JUDGE

22 
23 _____
24 UNITED STATES DISTRICT JUDGE

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27 UNITED STATES DISTRICT JUDGE

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29 UNITED STATES DISTRICT JUDGE
30 
31 _____
32 UNITED STATES DISTRICT JUDGE