

1.5 Bankruptcy Cases.

- (a) **Reference to Bankruptcy Court.** All cases under Title 11 of the United States Code, and all proceedings arising under Title 11 or related to a case brought under Title 11, are referred to the bankruptcy court of this district under 28 U.S.C. § 157.
- (1) **Civil Cases.** Upon the filing of a suggestion in bankruptcy, or other notification that a party to a civil case is a debtor in a bankruptcy case, the entire case is referred to the bankruptcy court for further action. Under this rule, the matter is referred to the bankruptcy court even if the suggestion of bankruptcy states the bankruptcy proceeding was initiated in another district. The bankruptcy judge requests status reports from the parties. After reviewing the status reports, the bankruptcy judge determines whether the case should proceed in bankruptcy court or be returned to district court. If the case is to be returned to district court, the bankruptcy judge files a report and recommendation concerning withdrawal of the reference. The report includes a recommendation regarding the necessity of the debtor's participation in the case, and, if appropriate, the bankruptcy judge enters an order in the bankruptcy case granting relief from the automatic stay to allow the case to proceed with the debtor as a party.
- (2) **Criminal Cases.** Upon notice to the court that a defendant in a criminal case is a debtor in a bankruptcy case, the district court may refer to the bankruptcy court questions about: restitution; forfeiture of assets, which may be property of the bankruptcy estate; or other monetary penalties. The bankruptcy judge responds with a recommendation related to the estate issues.
- (b) **Withdrawal of Reference.** The district court may withdraw, in whole or in part, a reference under this rule on its own or a party's timely motion.
- (1) **Motions for Withdrawal.** Motions for withdrawal of reference must be filed with the bankruptcy court clerk. The district court refers motions for withdrawal of reference to the bankruptcy court for a report and recommendation, except as stated in Nebraska General Rule 1.5(b)(7).
- (2) **Report and Recommendation; Objections.** When a motion for withdrawal of reference is filed, a bankruptcy judge after notice and hearing files a report and recommendation with the bankruptcy and district courts. The district court may adopt the report and

recommendation if the parties file no objections within 14 days of service. Parties must file any objections to the report and recommendation with both the bankruptcy and district courts.

- (3) **Assignment of District Judge.** When the bankruptcy judge files the report and recommendation with the district court, the motion for withdrawal of reference and the bankruptcy court's report and recommendation are assigned to a district judge under Nebraska General Rule 1.4(a)(2) and any applicable general order regarding assignment of district judges. The assigned district judge rules on the motion to withdraw. A motion for withdrawal of reference does not stay any bankruptcy matter pending before a bankruptcy judge, unless a district judge or a bankruptcy judge issues a stay.
 - (4) **Hearing on Objections.** If the assigned district judge holds a hearing on objections to the report and recommendation, the order setting the hearing is filed in both the district and bankruptcy courts.
 - (5) **Order of Withdrawal.** If the district court withdraws the reference, the order is filed in both the district and bankruptcy courts. The district court clerk notices interested parties. When the bankruptcy court clerk receives a withdrawal order, the bankruptcy court clerk delivers to the district court clerk parts of the bankruptcy or adversary file necessary for the district court proceeding.
 - (6) **Denial of Motion.** If the district court denies a motion for withdrawal of reference, the order is filed in both the district and bankruptcy courts.
 - (7) **Bankruptcy Judges Disqualified or Incapacitated.** If all bankruptcy judges are disqualified or incapacitated, the bankruptcy court clerk refers motions for withdrawal of reference to the district court clerk. The motion for withdrawal of reference is then assigned to a district judge under Nebraska General Rule 1.4(a)(2) and any general order regarding assignment of district judges. After conducting any necessary proceedings, the assigned district judge rules on the motion to withdraw.
- (c) **Appeals from Bankruptcy Court Decisions.** Appeals from bankruptcy court decisions must comply with 28 U.S.C. § 158 and federal and local bankruptcy rules. Federal Rule of Bankruptcy Procedure 8009, respecting the filing of briefs, does not apply where an election has been made to have the appeal heard by the district court; in those appeals, briefs must comply

with the district court's orders.

- (d) **Jury Trials.** If the right to a jury trial applies in a bankruptcy proceeding, the district judges specifically designate the bankruptcy judge to exercise the jurisdiction to conduct jury trials in bankruptcy cases and adversary proceedings with the consent of all parties.