

LR 2100 - Referral of Bankruptcy Proceedings

LR 2100-1 Cases and Proceedings Under Title 11, United States Code

(a) Reference

This Court hereby continues its reference to the bankruptcy judges of this district of all cases under Title 11 and all proceedings arising under Title 11 or arising in or related to cases under Title 11.

(b) Filing

Except as otherwise provided in these rules, all documents in cases under Title 11 and all proceedings arising under Title 11 or arising in or related to cases under Title 11 must be filed with the bankruptcy court clerk.

(c) Core Proceedings Requiring Final Adjudication by the District Court

(1) Proposed Findings of Fact and Conclusions of Law

If a bankruptcy judge or district judge determines that Article III of the United States Constitution does not permit entry of a judgment or final order by a bankruptcy judge in a particular core proceeding under 28 U.S.C. § 157 that has been referred under LR 2100-1(a), and the parties do not consent to the bankruptcy judge entering a judgment or final order, then the proceeding will be treated as though it were one under 28 U.S.C. § 157(c)(1).

(A) Objections

No later than 14 days after being served with the proposed findings of fact and conclusions of law, a party may file in the district court and serve specific written objections to the proposed findings and conclusions. A party may respond to another party's objections within 14 days after service. If the district judge orders preparation of a transcript, the objector must pay for the transcript. If the district judge does not order preparation of a transcript, any party that elects to order a transcript must pay for it.

(B) District Judge Ruling

The district judge will make a *de novo* review of the proposed findings and conclusions. The district judge may do so on the record or take additional evidence. The district judge may accept, reject, or modify the proposed findings and conclusions, or recommit the matter to the bankruptcy judge with instructions. Any judgment or final order in the proceeding must be entered by the district court exercising original jurisdiction under 28 U.S.C. § 1334.

(2) Bankruptcy Court's Entry of Judgment or Final Order

- (A) After entry by the bankruptcy court of a judgment or final order, a party may file in the district court a motion requesting a determination that the bankruptcy court's entry of the judgment or final order was not permitted by Article III of the United States Constitution. The movant must attach to the motion a copy of the judgment or order and any supporting findings of fact and conclusions of law. The motion must include the names and addresses of and be served on the other parties to the proceeding.
- (B) If, after notice and an opportunity to be heard on the motion, the district judge determines that entry of the judgment or order was impermissible, then LR 2100-1(c)(1) will apply to the judgment or order and any findings and conclusions as though the judgment or order and the findings and conclusions had been proposed by the bankruptcy judge under LR 2100-1(c)(1) and service of the district judge's determination that entry of the judgment or order was impermissible constituted service of the bankruptcy judge's proposed findings of fact and conclusions of law.
- (C) The filing of a motion under LR 2100-1(c)(2)(A) does not limit the filer's right to seek alternative relief, including without limitation motions in the bankruptcy court under Fed. R. Bankr. P. 9023 and 9024, an appeal under Fed. R. Bankr. P. 8001, and a motion for stay pending appeal under Fed. R. Bankr. P. 8005.

Commentary

See Wellness Int'l Network, Ltd. v. Sharif, 135 S. Ct. 1932, 191 L. Ed. 2d 911 (2015); *Stern v. Marshall*, 131 S. Ct. 2594, 180 L. Ed. 2d 475 (2011).

LR 2100-1(c) borrows from 28 U.S.C. § 157(c)(1).

LR 2100-2 Cases and Proceedings Under the Bankruptcy Act of 1898

The bankruptcy judges will hear and determine cases and proceedings arising under the Bankruptcy Act of 1898, as amended, pursuant to § 403(a) of the Bankruptcy Reform Act of 1978.

LR 2100-3 Procedure Concerning Abstention (*See* 28 U.S.C. § 1334(c)), Withdrawal of Reference (*See* 28 U.S.C. § 157(d)), and Change of Venue (*See* 28 U.S.C. § 1412)

(a) Titles

All documents must be entitled "United States Bankruptcy Court for the District of Oregon."

(b) Local Rules

The District Court Local Rules and Orders apply to all matters before a district judge. The Bankruptcy Court Local Rules and General Orders apply to all matters before a bankruptcy judge.

(c) Timeliness

- (1) Unless otherwise provided in these rules, to be considered "timely," motions of the type in the caption of LR 2100-3 must be filed with the movant's first pleading or motion.
- (2) A motion for enlargement of a time limit in subsection (c)(1) may be granted where the failure to act was the result of excusable neglect. The motion will ordinarily be denied if made more than twenty (20) days after the specified time period.

(d) Filing of Documents in District Court

After entry of an order by a district judge withdrawing the reference of an entire case or adversary proceeding, or after an appeal is filed from a judgment, order, or decree of a district court judge, documents must be filed with the district court clerk.

(e) Caption of Documents Where Matter Has Been Transmitted to District Court

When a matter has been transferred to the district court, the caption of all documents submitted within that matter will contain, under the title of the document, the wording, "Referred to United States District Court."

(f) Required Exhibits

All motions and responses, which seek district court action must have attached as exhibits copies of all relevant portions of any record in the bankruptcy court record that the party believes will be necessary for consideration of the motion. When ruling on such a motion, the district court will consider only those portions of the record which are attached.

LR 2100-4 Withdrawal of Reference (*See* 28 U.S.C. § 157(d))

In addition to the statutory provisions relating to withdrawal of reference, a case, or any portion thereof, may be withdrawn on recommendation of a bankruptcy judge.

LR 2100-5 Abstention (*See* 28 U.S.C. § 1334(c))

(a) General

Motions for abstention will be heard by a bankruptcy judge.

(b) Motions Under 28 U.S.C. § 1334(c)(2)

In addition to complying with the provisions of LR 2100-3, motions filed pursuant to 28 U.S.C. § 1334(c)(2) must be accompanied by an affidavit, declaration under penalty of perjury, or deposition setting forth compliance with each statutory provision, and by an appropriate memorandum.

LR 2100-6 Change of Venue (*See* 28 U.S.C. § 1412)

Motions for a change of venue will be heard by a bankruptcy judge.

LR 2100-7 Removal and Remand (*See* 28 U.S.C. § 1452)

(a) General

All provisions of LR 2100-3 will apply except LR 2100-3(c).

(b) Timeliness

A motion to remand a case removed to the bankruptcy court will be considered only if it is filed within thirty (30) days of docketing of the removal by the bankruptcy court.

LR 2100-8 Jury Trials

(a) General

In any proceeding in which a demand for a jury trial is filed, the bankruptcy judge will determine whether the party has a right to a jury trial and whether the demand was properly filed. If so, the bankruptcy judge will preside at the jury trial if all parties consent in writing and there is approval by a district judge. If there is not consent or district judge approval, the bankruptcy judge will conduct pretrial proceedings up through lodging of the pretrial order, unless reference is withdrawn.

(b) Involuntary Cases

Issues arising under 11 U.S.C. § 303 will be tried before a bankruptcy judge without a jury.

LR 2100-9 "Non-Core" Proceedings (*See* 28 U.S.C. § 157(c)(2))

Subject to the provisions of LR 2100-8(a), if all parties to a case consent, the bankruptcy judge may conduct any and all proceedings in a "non-core" proceeding and enter orders and judgments without further order of this Court.

LR 2100-10 Stay of Administration

The filing and pendency of any motion requesting district court action or a request for a jury trial will not stay or suspend the bankruptcy case or proceeding. A motion for stay will be heard by the bankruptcy judge to whom the case or proceeding is assigned.

LR 2100-11 Matters for District Court Determination After Entry of Proposed Findings of Fact and Conclusions of Law by the Bankruptcy Judge (28 U.S.C. § 157(c)(1))

(a) Oral Argument

Any party may request oral argument by endorsing the request on the written objections or responses.

(b) Immediate Review

When a bankruptcy judge certifies that circumstances require immediate review by a district judge, a district judge will review the matter and enter an order or judgment as soon as possible.

(c) General Form of Order or Judgment in a "Non-Core" Proceeding

In a "non-core" proceeding (28 U.S.C. § 157(b)) tried by a bankruptcy judge and where no timely objection has been filed to the proposed findings of fact and conclusions of law, unless prepared by the bankruptcy judge, the prevailing party must submit to the bankruptcy court clerk a proposed form of final order or judgment complying with the formatting requirements for orders and judgments as set forth in Local Bankruptcy Rule 9021-1.

(d) Default Order or Judgment in a "Non-Core" Proceeding

If an order or judgment will be entered by default and it involves a "non-core" proceeding, the moving party or plaintiff must submit to the bankruptcy court clerk:

- (1) A proposed form of default order complying with the formatting requirements for orders and judgments as set forth in Local Bankruptcy Rule 9021-1; and
- (2) A proposed form of final order or judgment complying with the formatting requirements for orders and judgments as set forth in Local Bankruptcy Rule 9021-1.

LR 2100-12 Procedure for Certification of Questions of State Law (*See also* LR 83-15)

- (1) Any interested party may request that determinative questions of state law be certified to a state appellate court pursuant to applicable state law allowing such certification. Requests for certification of questions of state law must be filed with the bankruptcy court and must include:
 - (A) A statement of the question of law to be answered; and
 - (B) A statement of all facts relevant to the question of law and showing fully the nature of the controversy in which the question arose.
- (2) The bankruptcy judge may, *sua sponte*, raise the issue of whether a determinative question of state law should be certified to a state appellate court pursuant to applicable state law allowing such certification. When the bankruptcy judge raises the issue of certification *sua sponte*, the clerk of the bankruptcy court will serve upon all interested parties a notice of a hearing on the issue of certification not less than twenty-one (21) days prior to the hearing. Any response to the notice must be filed with the clerk of the bankruptcy court not less than ten (10) days prior to the hearing.
- (3) A request for certification or a *sua sponte* consideration of the certification issue will be heard by the bankruptcy judge.

- (4) If the bankruptcy judge determines that the state law question should not be certified, he or she will enter an order denying certification. Such an order denying certification will be subject to review to the extent permitted by 28 U.S.C. § 158.
- (5) If the bankruptcy judge determines that the state law question should be certified he or she will issue a report and recommendation and a proposed certification order which will include:
- (A) A statement of the question of law to be answered; and
- (B) A statement of all facts relevant to the question of law and showing fully the nature of the controversy in which the question arose. The bankruptcy court clerk will serve forthwith a copy of the report and recommendation and proposed certification order upon the parties to the proceeding. Within fourteen (14) days of being served with a copy of the report and recommendation and proposed certification order, a party may serve and file with the clerk of the bankruptcy court objections prepared in the manner provided by Fed. R. Bankr. P. 9033(b). The district court will review the report and recommendation and proposed certification order under Fed. R. Bankr. P. 9033 and will enter the order granting or denying certification.

Amendment History to LR 2100	
June 1, 2002	
LR 2100	Rules numbers have been restyled to track the current district court local rules numbering format, <i>e.g.</i> , LR 2100.1 has been renumbered to LR 2100-1.
LR 2100-12(e)(2)	This rule has been amended to add the last sentence, which had been included in previous drafts, but inadvertently was omitted in the final version of the original rule.
December 1, 2009	
Generally	The word "shall" replaced by either "must" or "will."
LR 2100-12(e)(2)	Time for filing objections changed from "10" days to "fourteen (14)" to conform to federal rules.
March 1, 2012	
LR 2100-12(b)	Italicized " <i>sua sponte</i> " and spelled out the number of days for those referred to within the rule.
March 1, 2014	
LR 2100-1(c)	This new subsection sets forth a procedure for core proceedings requiring final adjudication by the district judge. LR 2100-1(c)(1)(A) and (B) are based

	in part on Fed. R. Civ. P. 72(b)(2) and (3).
May 1, 2015	
LR 2100-11(c) and (d)	Removed reference to subsection (a) of Local Bankruptcy Rule 9021-1.
March 1, 2016	
LR 2100-1(a)	Changed "This court" to "This Court."
LR 2100-1(c)(1)	Added comma after "proceeding" and changed text thereafter to: "under 28 U.S.C. § 157 that has been referred under LR 2100-1(a) but the parties consent to the bankruptcy judge entering a judgment or final order, the proceeding will be treated as though it were one under 28 U.S.C. § 157(c)(1)."
LR 2100-1(c)(2)(C)	Changed "Federal Rules of Bankruptcy Procedure" to "Fed. R. Bankr. P."
Commentary	After " <i>See</i> ," added " <i>Wellness Int'l Network, Ltd. v. Sharif</i> , 135 S. Ct. 1932, 191 L. Ed. 2d 911 (2015)." Removed " <i>In re Bellingham Ins. Agency, Inc.</i> , 702 F.3d 553 (9th Cir. 2013), <i>cert. granted sub nom. Exec. Benefits Insur. Agency v. Arkison</i> , No. 12-1200 (June 24, 2013)."
LR 2100-9	In the caption, changed "Matters" to "Proceedings." In the rule text, changed "matter" to "proceeding," and "this court" to "this Court."
LR 2100-11(c)	In the caption, changed "Matter" to "Proceeding." In the rule text, changed "matter" to "proceeding."
LR 2100-11(d)	In the caption, changed "Matter" to "Proceeding." In the rule text, changed "matter" to "proceeding."
LR 2100-12(5)(B)	Changed "Fed.R.Bank.P." to "Fed. R. Bank. P."
<u>March 1, 2017</u>	
<u>LR 2100-5(b)</u>	<u>Inserted comma after "perjury."</u>