

United States District Court
Southern District of New York

FILED
U.S. DISTRICT COURT

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S.D. OF N.Y.

In the Matter of the Supplement

to

ORDER

Emergency Bankruptcy Rule I

M. 10-468

By vote of the Southern District Board of Judges on January 12, 1983, Emergency Bankruptcy Rule I of this court is hereby supplemented to include the following:

- (a) Purpose of Rules: The purpose of these rules is to supplement the provisions of Emergency Bankruptcy Rule I promulgated by the district court and to provide the necessary mechanisms to implement that Rule.
- (b) Designation on Papers: Counsel should include in the caption of all papers (except proofs of claim) filed in the bankruptcy court a statement whether the matter is a related proceeding within the meaning of Emergency Bankruptcy Rule I(d)(3)(A).
- (c) Consent to Entry of Judgment or Order: In a related proceeding within the meaning of Emergency Bankruptcy Rule I(d)(3)(A), consent to the entry of judgment or a dispositive order by the bankruptcy judge, in lieu of entry by a district judge, which consent is authorized by (d)(3)(B) of Emergency Bankruptcy Rule I, may be evidenced by counsel's signature or the signature of a party not represented by counsel on the proposed order or judgment or by a separate stipulation or may be made in open court on the record. Any party submitting a proposed dispositive order or judgment shall certify whether consent to the bankruptcy judge's entry in lieu of entry by a district judge has been obtained from all necessary parties.
- (d) Findings, Conclusions, and Proposed Orders and Judgments: In a related proceeding within the meaning of Emergency Bankruptcy Rule I(d)(3)(A), in the absence of consent, the bankruptcy judge shall file findings, conclusions, and a proposed dispositive order or judgment with the Clerk of the Bankruptcy Court. A copy shall forthwith be mailed by the Clerk of the Bankruptcy Court to all parties who shall have ten (10) days from the date of mailing within which to serve written objections to

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such conclusions, findings, and proposed dispositive order or judgment on the opposing parties and to file the objections with the Clerk of the Bankruptcy Court who shall send the objections to the Clerk of the District Court for transmittal to the assigned district judge.


- (e) Dispute Whether Matter is Related Proceeding: The Court on its own motion or any party by motion may seek a determination of whether a matter is a related proceeding within the meaning of Emergency Bankruptcy Rule I(d)(3)(A). The motion shall be brought on before the bankruptcy judge on not less than two (2) days written notice to all parties. The bankruptcy judge's determination whether the matter is a related proceeding shall be in the form of an order to that effect. If there are circumstances that require the order to be approved by a district judge, the bankruptcy court shall so certify to the district court pursuant to Emergency Bankruptcy Rule I.
- (f) Suggestion of Circumstances that Require Order or Judgment to be approved by a District Judge: Any party believing that circumstances require that any order or judgment (other than a dispositive order or judgment entered on consent in a related proceeding) be approved by the district court shall file written application with the bankruptcy court prior to the time of signing of any such order or judgment, or if a hearing is held, prior to the conclusion of the hearing, stating the circumstances believed to require such approval and requesting that the bankruptcy court so certify. The certification may be included in the proposed order; in the case of a judgment, the suggested certification shall be in a separate proposed order. The bankruptcy court need not hold a hearing on the question of certification.
- (g) Presumed Consent to Jurisdiction of Bankruptcy Court: A failure to file written application authorized by Rule (f) of these rules shall be deemed a consent to the jurisdiction of the bankruptcy court to make such order or judgment without reference to the district court to the extent that such consent might lawfully have been given.

The supplement is effective as of the date of entry of this order.

Dated:

New York, N.Y.

1/14/83


CONSTANCE BAKER MOTLEY
Chief Judge