

INFORMATION FOR PRO SE PARTIES WITH BAP APPEALS

What is a BAP appeal?

A BAP appeal is the process where three BAP judges determine whether or not the bankruptcy court decided something correctly.

The BAP judges are bankruptcy judges who understand bankruptcy law. They can only decide whether the bankruptcy court decided something correctly. They cannot do something for you that you did not ask the bankruptcy court to do.

What happens in a BAP appeal?

In a BAP appeal, the parties gather and submit information to the BAP which allows the BAP to decide if the bankruptcy court decision was correct or not. There are several steps. Some steps take place at the bankruptcy court and other steps take place at the BAP.

Steps in a BAP appeal:

1. First you must file a notice of appeal at the bankruptcy court. If you have a BAP case number, you already did this.
2. You must pay the filing fee of \$298 at the bankruptcy court.
3. Next you tell the BAP what you do not agree with in the bankruptcy court decision. This is called a Statement of Issues on Appeal. It can be simple. For example, you can write down the following sentence and fill in the blank:

I think the bankruptcy court was wrong when it _____
_____.

A sample form is available for you to use. (See pages 8-9.) Fill out the form. File it at the bankruptcy court.

4. You also tell the BAP what things the bankruptcy court considered when it reached its decision. This is called the Designation of Record. It is a list of

the documents the bankruptcy court used when it decided the case. This is a list of the documents filed at the bankruptcy court (a motion or adversary complaint and all other documents relating to it such as responses, replies, and answers). It should also include exhibits presented at trial (the documents the judge looked at when he/she decided the case). It should also list any transcripts. A transcript is a written version of everything that was said in court.

A sample form is available. (See pages 10-11.) File it at the bankruptcy court.

Alternatively, print a copy of the bankruptcy court docket, circle the numbers of the documents used by the bankruptcy court, write “Designation of Record” at the top, sign the document, and file it as your Designation of Record.

5. If there was a hearing at the bankruptcy court, it was recorded. A transcript is a written version of everything that was said at the bankruptcy court about the decision you are appealing. If you want the BAP to know what was said at the bankruptcy court hearing or trial, you must order the transcript. You must do this at the bankruptcy court.

Let us know if you will be ordering a transcript. A sample form is available. (See pages 12-13.) File it at the bankruptcy court.

This form is not enough to get the transcript. Please contact the bankruptcy court for instructions on ordering the transcript.

6. Next please tell us why you think the bankruptcy court was wrong. This document is called your brief. Because you are acting without the help of an attorney, you may use the BAP’s simple form to tell us about your case and why the bankruptcy court was wrong. (See pages 4-7.) Fill out the form and file it with the BAP. Attach extra pages if necessary, but not more than 30 pages total.

If you are the appellant – the one who filed the notice of appeal and who thinks the bankruptcy court was wrong – you file your brief first. We will tell you in a briefing order when to file your brief. If you are the appellee –

the one who did not file the notice of appeal – you file your brief second, 21 days after the appellant files his/her brief.

7. After all briefs are filed, 3 BAP judges will decide your case. The case may be set for oral argument or may be decided by the judges based on the paperwork. Oral argument is a hearing before 3 BAP judges where you tell the judges why you agree with or disagree with the bankruptcy court. You will be asked if you would like to have argument. When asked, please let us know if you would like to argue. With or without oral argument, the BAP judges will read the paperwork and decide the case.
8. After the BAP judges have decided your case, the BAP will send you the decision.

**UNITED STATES BANKRUPTCY APPELLATE PANEL
FOR THE NINTH CIRCUIT**

In re: _____
(Debtor's Name)

BAP Number: _____

Bk. Number: _____

Appellant's Name

v. Adv. Number: _____

Appellee's Name

INFORMAL BRIEF OF _____
(Your name)

1. What document are you appealing?

List the name of the bankruptcy court order or judgment you are appealing:

List the date of the order or judgment you are appealing:

2. What are the facts of your case? Please describe:

3. What did you ask the bankruptcy court to do?

4. What issues are you raising on appeal? What do you think the bankruptcy court did wrong?

5. Did you present all the issues you listed in #4 to the bankruptcy court?

Yes: _____

No: _____

If not, why?

6. What law supports your argument in this appeal?

7. List any other cases you have pending in this court by BAP case number:

8. List any other current cases you have that could affect this appeal (such as any matters now at the bankruptcy court, district court, or the court of appeals):

9. Do you want to have oral argument before three BAP judges? Check one:

Yes: _____

No: _____

CERTIFICATE OF SERVICE:

I certify that a copy of this brief and all attachments was served,

check one: _____ or _____ on the persons listed below:
in person by mail

Name Address Date Served

Sign your name: _____

Print your name: _____

UNITED STATES BANKRUPTCY COURT

(name of district)

In re:

Debtors name

Bk. Number: _____

Appellant's Name

Adv. Number: _____

v.

Appellee's Name

BAP Number: _____

STATEMENT OF ISSUES ON APPEAL OF

(Your name)

I think the bankruptcy court was wrong when it:

CERTIFICATE OF SERVICE:

I certify that a copy of this statement of issues on appeal was served,

check one: _____ or _____ on the persons listed below:
 in person by mail

<u>Name</u>	<u>Address</u>	<u>Date Served</u>
-------------	----------------	--------------------

Sign your name: _____

Print your name: _____

UNITED STATES BANKRUPTCY COURT

(name of district)

In re:

Debtors name

Bk. Number: _____

Appellant's Name

Adv. Number: _____

v.

Appellee's Name

BAP Number: _____

DESIGNATION OR RECORD ON APPEAL OF

(Your name)

List the documents the bankruptcy court used when it decided the case:

CERTIFICATE OF SERVICE:

I certify that a copy of this designation of record on appeal was served,

check one: _____ or _____ on the persons listed below:
 in person by mail

<u>Name</u>	<u>Address</u>	<u>Date Served</u>
-------------	----------------	--------------------

Sign your name: _____

Print your name: _____

UNITED STATES BANKRUPTCY COURT

(name of district)

In re:

Debtors name

Bk. Number: _____

Appellant's Name

Adv. Number: _____

v.

Appellee's Name

BAP Number: _____

STATEMENT OF TRANSCRIPTS

(Your name)

1. Check one:
 No, I do not intend to designate a transcript: _____
 Yes, I intend to designate a transcript: _____
2. If you answered yes to #1, list the dates and times of the hearings for which you want a transcript:
3. Contact the bankruptcy court for instructions on how to order and pay for your transcripts.

CERTIFICATE OF SERVICE:

I certify that a copy of this statement of transcripts was served,

check one: _____ or _____ on the persons listed below:
 in person by mail

Name Address Date Served

Sign your name: _____

Print your name: _____