

Report on Public Policy Position

Name of section:

Business Law Section

Contact person:

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Regarding:

Amendment to Rule 8002, Federal Rules of Bankruptcy Procedure

Date position was adopted:

December 1, 2007

Process used to take the ideological position:

Position adopted after discussion and vote at a scheduled meeting.

Number of members in the decision-making body:

15

Number who voted in favor and opposed to the position:

13 Voted for position

0 Voted against position

0 Abstained from vote

2 Did not vote

Position:

The Business Law Section urges the Judicial Conference of the United States to reject proposed amendments to Rule 8002 of the Federal Rules of Bankruptcy Procedure ("Rule 8002") that would lengthen the time for filing a notice of appeal from a judgment, order or decree in a bankruptcy case.

Explanation of the position, including any recommended amendments:

The issue is whether Rule 8002 should be amended to extend the time for appealing a judgment, order, or decree entered in a bankruptcy case from 10 to 14 days or from 10 to 30 days. The 10-day rule has been in effect for more than 100 years, has worked well, and is relied on by debtors, lenders, asset purchasers, entities funding settlements, contract assignees and other parties who require a final and nonappealable order before they will fund or close significant transactions.

The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report.

RECOMMEND STATE BAR ACTION ON THIS ISSUE:

List any arguments against the position:

The Advisory Committee on Bankruptcy Rules of the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States (the “Bankruptcy Rules Committee”) has published for comment a proposal to amend Rule 8002 to lengthen the time for appeal from 10 to 14 days in order to make the deadline a multiple of 7 days. The Bankruptcy Rules Committee has also requested comment on a proposal to lengthen the appeal period to 30 days to promote consistency between standard civil practice and bankruptcy practice.