



ENTERED

TAWANA C. MARSHALL, CLERK
THE DATE OF ENTRY IS
ON THE COURT'S DOCKET

The following constitutes the order of the Court.

Signed April 26, 2006

Barbara J. Houser
United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**IN THE MATTER OF PROCEDURES
FOR EN BANC CONSIDERATION OF
LEGAL ISSUES UNDER BAPCPA**

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GENERAL ORDER 2006-03

ORDER

The enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act (“BAPCPA”) has effected comprehensive and complex substantive changes in the bankruptcy laws of the United States, which will require the resolution of many legal issues not previously addressed by the bankruptcy judges of this Court (the “Bankruptcy Judges”). The Bankruptcy Judges believe that the bankruptcy bar desires consistency in the resolution of legal issues arising under BAPCPA among the Bankruptcy Judges where possible and appropriate. The Bankruptcy Judges also believe that judicial economy will be served, and the likelihood for uniformity in the resolution of BAPCPA legal issues will be enhanced, by the adoption of procedures for en banc consideration of such legal

issues.

Accordingly, it is

ORDERED that the Court adopts the attached Procedures for En Banc Consideration of Matters before the United States Bankruptcy Court for the Northern District of Texas (the “En Banc Procedures”). It is further

ORDERED that the En Banc Procedures may be amended from time to time by further Order of the Court. It is further

ORDERED that while instructive regarding the likely views of the Bankruptcy Judges of this Court, an en banc decision in a particular case will not be binding upon the parties in any other case pending in this Court or upon any individual Bankruptcy Judge in such other case. Parties in such other case may challenge the correctness of an en banc decision, and an individual Bankruptcy Judge shall be entitled to change his or her mind regarding the correctness of an en banc decision, in another pending case.

The Court has authorized its Chief Bankruptcy Judge to enter this Order on behalf of the Court.

END OF ORDER

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

PROCEDURES FOR EN BANC CONSIDERATION OF MATTERS

The following procedures shall be implemented in all cases pending before the United States Bankruptcy Court for the Northern District of Texas.

1. The Bankruptcy Court for the Northern District of Texas may sit en banc, as a single court, at such times and places within the Northern District of Texas as determined by consent of all judges in regular, active service in the Northern District of Texas.
2. Any judge in active service, on his or her own motion, may nominate a matter on his or her docket for consideration en banc, by sending a letter to all judges of the Bankruptcy Court for the Northern District of Texas who are on active duty. The letter shall state the issue or issues presented and shall address why the matter fits the criteria set forth in ¶ 4. Any judge on active duty may object to, join in, or otherwise comment on the nomination within 20 days after the date of the initiating judge's letter. Any attorney appearing before the court may request that the judge before whom he or she is appearing nominate a matter in which such counsel is appearing for hearing by the en banc court.
3. If at least two other judges in active service join in the nomination, and no judge in active service objects to en banc consideration of the matter, the matter shall be accepted for en banc hearing. The chief judge of the Bankruptcy Court for the Northern District of Texas shall propose the date and time of the en banc hearing. The chief judge shall also designate a judge of the court (the "Designated Judge") for each matter set for en banc hearing who shall: (a) set a briefing schedule respecting the matter; (b) assist parties and others authorized to participate in dividing time for oral argument; and (c) ensure that

- briefs and argument are not duplicative. Briefs by non-party participants (other than the U.S. Trustee) may not exceed ten pages without the approval of the Designated Judge.
4. The Bankruptcy Court for the Northern District of Texas shall not consider en banc any matter unless: (a) uniformity throughout the Northern District of Texas on the issue will aid in case administration; (b) the facts controlling the resolution of the issue (1) are not disputed or (2) may be resolved by judicial notice; and (c) disposition of such matter may be deferred pending an en banc hearing.
 5. When sitting en banc, the Bankruptcy Court for the Northern District of Texas shall include all judges on regular active service.
 6. The Clerk of the Court shall give notice to all CM/ECF subscribers of any matter set for en banc hearing. Such notice shall state the issue or issues presented by the matter and shall identify the Designated Judge.
 7. Within 20 days after posting of the notice described in ¶ 6, any person or entity may file a motion for authority to file an amicus brief and present oral argument at the hearing on the matter. A copy of such motion shall be delivered by movant's counsel to the Designated Judge. Authority to participate in the en banc process may be granted by the Designated Judge upon the movant's demonstration of good cause to so participate.
 8. Matters presented to the Court shall only be determined by en banc decision if all judges in active service on the Court concur in the relief to be granted and the reasoning therefor. Any matter that fails to garner the concurrence of all judges in active service shall be remanded to the nominating judge for his or her disposition.
 9. Similarly, all judges in active service on the Court may agree, at any time, including after the conclusion of oral argument, to remand all or any part of any matter to the nominating

judge if it determines that the matter is, to such extent, not suitable for en banc consideration.

10. All documents and rulings relating to a matter referred for en banc consideration shall be filed under the docket number of the case or adversary proceeding in which the en banc matter originated.