

Nuts and Bolts of Bankruptcy Appeals

The discussion will focus on appeals to the BAP and to the District Court. It is designed for newer attorneys or those unfamiliar with appeals, but any interested attorney is welcome.

Presented by CDCBAA

Speaker: M. Jonathan Hayes, Senior Counsel to RHM Law, LLP. Former BAP Law Clerk.

When: Four sessions of one and a half hours each – total six hours.

Wednesdays: March 6, March 20, March 27, and April 3, 2024.

Each session will be by Zoom, 5:30pm to 7pm.

MCLE: 1 ½ hour of MCLE will be given for each session actually attended.

Cost for the full program:

- Members - free, included in annual membership fee (see below)
- Judges - no charge
- Judicial staff - no charge
- Government and public-interest employees - \$50.00
- All others for this program - \$75.00 (The payment will be applied to the annual membership fee if you decide to join CDCBAA after the program).

***No refunds if you do not attend all sessions.

How to Register: Only need to register one time to attend all four programs by clicking on link below:

https://us02web.zoom.us/meeting/register/tZEpcOurpzMiH9whRxEcDDjLJsoQKI_YtxO1

Materials: will include copies of forms and pleadings filed in actual appeals.

Session 1. March 6, 2024

How the BAP works

Timing

Notice of appeal

Who's the appellant?

Final order?

BAP or district court?

After the Notice of Appeal is filed:

Designation of record

Statement of issues

Waiver?

- Ordering the transcript
- Picking a good case to appeal
 - Standards of review
 - De novo
 - Clear error
 - Abuse of discretion

Session 2. Mar 20, 2024

- Motion for stay pending appeal
- The record (sometimes called the appendix)
- Appealing an adversary judgment
 - Complaint
 - JPTO
 - Judgment
 - Transcripts
- Appealing a motion
 - Motion, opp, reply, supps
- Upload to the BAP with the opening brief
 - Paper copies? (never if BAP)

Session 3. Mar 27, 2024

- Motions with the BAP
 - Extension of time
 - Dismiss
 - Sanctions or fees
 - OSC
- How motions are processed.
- The opening brief
 - When is it due?
 - Keep it simple – keep it short.
 - It is not a repeat of the motion or trial. Focus on the mistakes made by the court.
 - Tell the story.
 - Tone
 - Table of contents
 - Required sections (only a few)
 - Citing cases – “develop the law.”
 - Judge Owens “I have good law clerks – but we don’t know your story.”

Session 4. April 3, 2024

- Oral argument
 - What the BAP does prior to oral argument
 - Moots
 - Best practices at the podium
- Post oral argument motions (rarely granted)
 - Motion for rehearing
 - Motion for rehearing en banc
 - Motion for fees for frivolous appeal