

FILED

MAY 18 2010

SUSAN M SPRAUL, CLERK
U.S. BKCY. APP. PANEL
OF THE NINTH CIRCUIT

UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE NINTH CIRCUIT

In re:)	BAP No.	EC-10-1116
)		
)	Bk. No.	09-45778
RAJ SINGH,)		
)	USDC No. 2:10-mc-0056 WBS KJM (PS)	
Debtor.)		
_____)		
)		
RAJ SINGH,)		
)		
Appellant,)		
)		
v.)	ORDER	
)	(Response Required)	
LAWRENCE J. LOHEIT, Trustee;)		
U.S. TRUSTEE,)		
)		
Appellees.)		
_____)		

Before: HOLLOWELL and DUNN, Bankruptcy Judges.

This is an appeal from an order dismissing a Chapter 13 case.

On April 15, 2010, the BAP issued a Notice of Deficient Appeal and Impending Dismissal, indicating that appellant had not paid the filing and docketing fees and requiring a response. Appellant did not file a response with the BAP.

Appellant filed a motion for fee waiver in the bankruptcy court on May 6, 2010. The motion has been forwarded to the BAP.

The fee waiver provisions of 28 U.S.C. § 1930(f), as well as the procedures and guidance promulgated by the Judicial Conference of the United States with respect to the statute, permits the bankruptcy court to waive appellate fees only with respect to individual debtors under Chapter 7 whose filing fee has been waived. Appellant is a Chapter 13 debtor, and thus ineligible for the fee waiver provisions of 28 U.S.C. § 1930(f). The bankruptcy court lacks authority to grant appellant leave to proceed in forma pauperis.

Furthermore, under the holding of Perroton v. Gray (In re Perroton), 958 F.2d 889 (9th Cir. 1992) and Determan v. Sandoval (In re Sandoval), 186 B.R. 490, 496 (9th Cir. BAP 1995), the Bankruptcy Appellate Panel has no authority to grant in forma pauperis motions under 28 U.S.C. § 1915(a) because bankruptcy courts are not "court[s] of the United States" as defined in 28 U.S.C. § 451. Only the U.S. District Court has authority to grant in forma pauperis status with respect to this appeal.

Therefore, appellant's motion is hereby TRANSFERRED to the United States District Court for the Eastern District of California for the limited purpose of ruling on the motion. For the convenience of the district court, a copy of the notice of appeal, the order on appeal and the motion will be forwarded to the district court for consideration.

It is appellant's responsibility to take all necessary steps

to have the motion considered by the district court within a reasonable period of time.

After the district court issues its decision, appellant is directed to notify the BAP of the district court ruling on the motion. The appeal will then proceed before the BAP.

No later than **Thursday, June 17, 2010**, appellant must file with the BAP and serve on opposing counsel a written response which includes as an exhibit a copy of the district court's order on the motion or an explanation of the steps appellant has taken to have the motion considered by the district court.

Failure to comply with the requirements of this order may result in dismissal of this appeal for lack of prosecution without further notice to the parties. 9th Cir. BAP R. 8070-1.

General Docket
U. S. Bankruptcy Appellate Panel for the Ninth Circuit

Bankruptcy Appellate Panel Docket #: 10-1116 **Docketed:** 04/15/2010
Raj Singh v. Lawrence Loheit, et al
Appeal From: California Eastern - Sacramento
Fee Status: fee due

Case Type Information:

- 1) Bankruptcy
- 2) Chapter 13 Non-Business
- 3) null

Originating Court Information:

District: 0972-2 : [09-45778](#)

Trial Judge: Ronald H. Sargis, U.S. Bankruptcy Judge

Date Filed: 11/24/2009

Date Order/Judgment:

04/05/2010

Date NOA Filed:

04/08/2010

Date Rec'd BAP:

04/12/2010

Prior Cases:

None

Current Cases:

None

Panel Assignment: Not available

In re: RAJ SINGH
Debtor

RAJ SINGH
Appellant

Raj Singh
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v.

LAWRENCE J. LOHEIT, Trustee
Appellee

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[COR LD NTC Retained]
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U.S. TRUSTEE
Appellee

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U.S. Department of Justice
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Sacramento, CA 95814-0000

In re: RAJ SINGH

Debtor



















RAJ SINGH

Appellant

v.

LAWRENCE J. LOHEIT, Trustee; U.S. TRUSTEE

Appellees

04/12/2010	  5 pg, 755.2 KB	Received notice of appeal filed in Bankruptcy Court on 04/08/2010, notice of referral, transmittal form and Civil Minute Order. (VJ)
04/15/2010	  3 pg, 78.45 KB	Notice to all parties and Bankruptcy Court RE: BAP Case number assigned: EC-10-1116. (VJ)
04/15/2010	  2 pg, 42.99 KB	Notice of Deficiency sent to Appellant RE: Filing fee not paid (lack of prosecution). Re: cc: All parties. (VJ)
04/15/2010	  3 pg, 627.12 KB	Sent BRIEFING ORDER & NOTICE to appellant Raj Singh. Copies to all parties.. Appellant Raj Singh's opening brief due 06/01/2010. (VJ)
05/03/2010	  1 pg, 50.2 KB	Received from Bankruptcy Court copy of Appellant's Designation of record on appeal filed in Bk. Ct. 04/28/2010. (VJ)
05/03/2010	  1 pg, 56.28 KB	Received from Bankruptcy Court copy of Appellant's Statement of issues on appeal filed in Bk. Ct. 04/28/2010. (VJ)
05/14/2010	  5 pg, 306.18 KB	Received from Bankruptcy Court copy of Appellant's Motion to proceed in forma pauperis filed in Bk. Ct. 05/06/2010. (VJ)
05/18/2010	  3 pg, 42.19 KB	Filed order (HOLLOWELL and DUNN) Appellant's motion for fee waiver is hereby TRANSFERRED to the United States District Court for the Eastern District of California for the limited purpose of ruling on the motion. [406626-2](05/18/2010);. (VJ)
05/19/2010	  12 pg, 1.69 MB	Sent document to U.S. District Court re:Motion of IFP. (VJ)

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Documents and Docket Summary

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