A STATISTICAL LOOKBACK AT 2017 FOR THE ELEVENTH CIRCUIT WITH A FOCUS ON BANKRUPTCY APPEALS IN FLORIDA

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Ever wonder about bankruptcy appeals; about how long a bankruptcy appeal to the Eleventh Circuit Court of Appeals will take? The answer lies in the Court's statistical data.

The Eleventh Circuit Court of Appeals was established by Congress in 1981 and has jurisdiction over federal cases originating in the southeastern states of Alabama, Florida, and Georgia. It is one of the busiest Courts of Appeal and it is also one of the hardest working. Although waiting for a decision may seem like an eternity for practitioners and litigants, the Eleventh Circuit actually disposes of cases pretty swiftly given its large case load. Bankruptcy appeals make up a small portion of the Eleventh Circuit's cases and a decision on the merits takes longer than the average time for the Court's other appeals.

Filings

In court year 2017, which encompasses October 2016 through September 2017, a total of 6,102 appeals were filed in the Eleventh Circuit. Among the 6,201 total appeals, only 64 (1%) were bankruptcy appeals from district court, while 5 (.08%) were appealed to the Eleventh Circuit directly from bankruptcy court. Therefore, only a total of 69 filings (1.1%) involved a bankruptcy issue. Of these 69 filings, 51 (73.9%) involved a bankruptcy issue that originated from the State of Florida. The U.S. District Court for the Middle District and the U.S. District Court for the Southern District of Florida comprised the entirety of the bankruptcy appeals, at 28 filings (40.6%) and 23 filings (33.3%), respectively. There were no bankruptcy appeals from the U.S. District Court for the Northern District.

What these statistics reveal is that a small number of appeals involve bankruptcy appeals. A majority of the appeals come from Florida as opposed to Alabama or Georgia. And of those appeals that come from Florida, the Southern and Middle Districts dominate.

Decisions and Pending Appeals

In court year 2017, the Eleventh Circuit decided 6,359 total cases. Excluding those appeals that were considered "member cases" and were consolidated with a lead appeal and excluding cross appeals, the Eleventh Circuit decided 6,194 cases (3,618 on the merits; 2,576 procedurally). Among the 6,194 determinations, only 68 were bankruptcy appeals from district court, while 3 were appeals directly from bankruptcy court. Among the 68 bankruptcy appeals from district court, 28 (41.2%) were concluded on the merits of the case (9 after oral argument, 19 after submission on the briefs). Of the 3 bankruptcy appeals directly from bankruptcy court, 1 case was decided on the merits of the case (after oral argument) and 2 cases were decided procedurally. Fifty-five out of the 68 bankruptcy appeals (80.9%) originated from one of the three Florida districts (Middle: 27; Southern: 25; Northern: 3). And 6 out of the 9 bankruptcy appeals were decided after the benefit of oral argument originated from one of the three Florida districts. These cases are as follows:

- David Failla, et al v. Citibank, N.A., Case No. 15-15626 (Oral Argument held on October 4, 2016) in an appeal that originated from the Southern District of Florida
- Jon Monson, II v. Alfred Galaz, Case No. 15-14939 (Oral Argument held on November 21, 2016) in an appeal that originated from the Middle District of Florida
- USA v. Alan Beane, Case No. 15-15444 (Oral Argument held on November 23, 2016) in an appeal that originated from the Middle District of Florida
- Larry Thacker v. SE Property Holdings, LLC, Case No. 16-11802 (Oral Argument held on January 30, 2017) in an appeal that originated from the Northern District of Florida
- Larry Thacker, et al v. John Venn, Jr., Case No. 16-12079 (Oral Argument held on January 30, 2017) in an appeal that originated from the Northern District of Florida
- Stratton Pollitzer v. Guy Gebhardt, Case No. 16-11506 (Oral Argument held on June 27, 2017) in an appeal that originated from the Southern District of Florida

As of October 2017, there were 48 bankruptcy appeals currently pending before the Eleventh Circuit, with 32 of these pending bankruptcy appeals originating from one of the three Florida districts (Middle: 16; Southern: 16; Northern: 0).

What these statistics reveal again, is that the State of Florida dominates the Eleventh Circuit's bankruptcy caseload makeup, predominantly due to litigation from Middle and Southern Florida. These statistics also reveal that the most common avenue for a bankruptcy appeal is through district court as opposed to an appeal from the bankruptcy court directly to the Eleventh Circuit. And when an appeal reaches the Eleventh Circuit, the Court will normally dispose of the case on procedural grounds as opposed to the merits. Finally, it is unlikely that the Court will hold an oral argument on a bankruptcy appeal.

Median Time

For bankruptcy appeals concluded in court year 2017, the median time from the notice of appeal, or docket date, to a final disposition was 176 days, or approximately 5.8 months. Focusing specifically on bankruptcy appeals concluded on the merits in 2017, the median time from the notice of appeal, or docket date, to a final disposition was 296 days, or approximately 9.7 months. In comparison, among the 3,618 total merits terminations in 2017, the median time from the notice of appeal, or docket date, to a final disposition was 252 days, or approximately 8.3 months.

So the next time you or your client is wondering how long will it take for the Eleventh Circuit to rule on a bankruptcy appeal, a good estimate is between 5.8 and 9.7 months. While this may seem like an eternity, this amount of time is relatively quick for bankruptcy appellate disposition, and largely attributable to the large case load that is born by the Eleventh Circuit and also the excellent quality of judges that comprise the Court.

For more information on this topic, please contact author,Ilyse Homer or Ashley Dillman Bruce, on the firm’s Dispute Resolution and Business Reorganization Teams.

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