

# FREQUENTLY ASKED QUESTIONS OF THE BAP (FAQs)

(Last revised: 12//2014)

<b>ID</b>	<b>Question</b>	<b>Answer</b>	<b>More Information</b>
1	Do I have to come to Boston for oral argument?	No. While the BAP typically holds oral argument in Boston, it recognizes that the cost of travel can be a major factor in a bankruptcy appeal. For this reason and depending upon the circumstances of the case, the BAP may allow parties to appear via video conference or telephone. The BAP may also consider the appeal on the briefs. In addition and depending upon the case load, the BAP judges may travel to the district from which the appeal arose to conduct oral argument.	1st Cir. BAP L.R. 8019-1
2	Will my case be heard on oral argument soon?	Yes. The BAP strives to schedule oral argument within six weeks after the final brief in a case is filed. For cases arising in Puerto Rico, the wait is somewhat longer.	
3	Can I file a paper by facsimile?	The BAP Clerk only accepts facsimile filings in situations which the BAP Clerk determines present compelling circumstances or are of an emergency nature. Under no circumstances will the BAP Clerk accept for facsimile filing briefs and appendices.	1st Cir. BAP L.R. 8001-1(c)
4	Does the BAP ever reverse a bankruptcy judge?	Yes. Like other appellate courts or panels, the BAP can affirm, reverse, remand or reverse and remand any case. Sometimes a case is affirmed on some issues and reversed on others.  The BAP hears cases in panels of three judges. No judge can hear a case from his or her own district.	

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| 5  | Will I have to learn new procedures?                      | No. The federal rules governing bankruptcy appeals apply to both the BAP and the district court. <u>See</u> Fed. R. Bankr. P. 8000 et seq. When the BAP receives the notice of appeal from the bankruptcy court, the BAP will send a notice that the appeal has been docketed. It provides you with a BAP case number and informs you of the papers you need to file. The Clerk's Office has prepared a Practice Guide for Appeals to the BAP, which explains the procedures before the BAP. |                                |
| 6  | Is a BAP decision appealed to the district court?         | No. A BAP decision is appealed to the U.S. Court of Appeals for the First Circuit, just as a district court decision would be. An appeal to the BAP is the equivalent of an appeal to the district court.  |                                |
| 7  | Can I expect friendly service from the BAP?               | Absolutely. We encourage you to call or e-mail any time you have a question or need assistance. The office is open from 8:30 a.m. to 5:00 p.m. The BAP Clerk's Office is dedicated to providing friendly, efficient, and quality service to the bench, the bar, and the public.  |                                |
| 8  | How long does it take for an appeal to be decided?        | The average time from the day the notice of appeal is filed to the day the decision is issued is about 9 months.   |                                |
| 9  | Should my brief cover be any particular color?            | No. As all briefs now appear on an electronic docket, such a cover is no longer necessary.   | 1st Cir. BAP<br>L.R. 8010-1(c) |
| 10 | What if I need more time to file my brief or other paper? | In order to obtain more time to file a brief or other paper, you must file a motion with the BAP asking for additional time and explaining why. If the opposing party requests additional time and you don't think additional time should be granted, you may file a response to the motion. Although you have 14 days in which to file a response, it is best to file it as early as possible.  | 1st Cir. BAP<br>L.R. 8011-1    |

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| 11 | How many copies do I need to file?                      | A party need only file one copy of the brief and appendix to a brief. If you would like to receive a file-stamped copy of any paper, please include an additional copy and a return envelope with postage prepaid.  |  |
| 13 | How is time calculated?                                 | Unless otherwise specified, Fed. R. Bankr. P. 9006(a), (b), (c), (e), and (f) apply to BAP appeals.   | Fed. R. Bankr. 9006                                    |
| 14 | What is the appendix?                                   | The appellant must provide copies of all items that the Panel should consider in an appendix that the appellant will file with its brief. An appellee who wishes to provide additional items not included in the appellant's appendix, may also file an appendix. Items that must be included in the appendix are listed in Fed. R. Bankr. P. Rule 8009(b). | Fed. R. Bankr. P. 8009(b);<br>1st Cir. BAP L.R. 8009-2 |
| 15 | Will the same judge who decided my case hear my appeal? | No. BAP judges may not consider an appeal that originated from their district. For example, a bankruptcy judge from Bangor, Maine cannot sit on the Panel of an appeal from Portland, Maine.  | 28 U.S.C. § 158(b)(6)                                  |
| 16 | Can I file documents electronically?                    | Yes. The BAP allows attorneys to file electronically. <i>See</i> General Order No. 2 and instructions on our website. Pro se parties, those parties not represented by an attorney, cannot file electronically.   |  |