



Suggested modification to the Standing Order of Referral
Arthur_J_Gonzalez to: Rules_Support
 Cc: Eugene_Wedoff

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History: This message has been forwarded.

Below is a proposed modification to the Standing Order of Referral that we (SDNY Bankruptcy Court) sent to the Laura Taylor Swain, as Chair of the SDNY District Court Bankruptcy Liaison Committee for consideration by that committee.

The proposal is intended to address the circumstance in which it is determined that a matter is core but the bankruptcy judge cannot enter a final order. Although I recognize that there is a difference of opinion as to whether such subcategory of core matters even exists, in that such matters should just be considered non-core; nonetheless we believe that it would be helpful to provide a procedure to address this situation. Such a procedure would then close the gap where a court were to find that such subcategory exists and is present in a particular case and determines that there is no authority to direct the Bankruptcy Court to submit proposed findings of fact and conclusions of law.

I forward it to you for your consideration.

Thank you,

Arthur J. Gonzalez

Pursuant to Section 157(a) of the Bankruptcy Amendments and Federal Judgeship Act of 1984, any or all cases under title 11 and any or all proceedings arising under title 11 or arising in or related to a case under title 11 are referred to the bankruptcy judges for this district.

If a bankruptcy judge or district judge determines that entry of a final order or judgment by a bankruptcy judge would not be consistent with Article III of the United States Constitution in a particular proceeding referred under this order and determined to be a core matter, the bankruptcy judge shall, unless otherwise ordered by the district court, hear the proceeding and submit proposed findings of fact and conclusions of law to the district court. The district court may treat any order of the bankruptcy court as proposed findings of fact and conclusions of law in the event the district court concludes that the bankruptcy judge could not have entered a final order or judgment consistent with Article III of the United States Constitution.