

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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STEPHEN KOWALEWSKI,

Plaintiff,

v.

ANGELA TORGERUD,  
KEITH TORGERUD,  
DAVID L. LANGE,  
ELLIOTT M. LEVINE and  
LYNN BODI,

Defendants.  
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OPINION AND ORDER

12-cv-858-bbc

This is an appeal from a final order of the United States Bankruptcy Court for the Western District of Wisconsin denying debtors-appellant Stephen Kowalewski's motion to hold creditor-appellants in contempt for attempting to collect discharged debts. The appeal is untimely and so must be dismissed for lack of jurisdiction.

Under 28 U.S.C. § 158(a)(1), a party may appeal final orders of a bankruptcy court to an appropriate district court. The notice of appeal must "be filed with the clerk within 14 days of the date of the entry of the judgment, order or decree appealed from." Fed. R. Bank. P. 8002(a). The deadlines in Rule 8002(a) are "mandatory and jurisdictional." Stelpflug v. Federal Land Bank of St. Paul, 790 F.2d 47, 49 (7th Cir. 1986). When an appellant fails to file a timely notice of appeal, the district court is deprived of appellate

jurisdiction and must dismiss the appeal. In re Schultz Manufacturing Fabricating Co., 956 F.2d 686, 689 (7th Cir. 1992).

In this case, the bankruptcy court entered an order denying appellant's motion for contempt on June 20, 2012. On July 30, 2012, appellant filed a motion for reconsideration, which the court denied on August 14, 2012. Under Fed. R. Bankr. P. 9024, a motion for relief from an order tolls the time to file an appeal but only if filed within 14 days of the challenged order. Fed. R. Bankr. P. 8002(b)(4); In re Bryson, 131 F.3d 601, 602 (7th Cir. 1997) (timely motion under Rule 9024 tolls time for filing an appeal); See also Hope v. United States, 43 F.3d 1140, 1143 (7th Cir. 1994) (motion under Fed. R. Civ. P. 60(b), counterpart of Fed. R. Bankr. P. 9024, did not toll time for filing appeal because filed outside time period in Fed. R. App. P. 4(a)(4)). Because appellant filed his Rule 9024 motion more than a month after the bankruptcy judge entered the order denying appellant's motion for contempt, appellant's motion for reconsideration did not toll the time for filing his notice of appeal. His notice of appeal was due on July 5, 2012. Appellant did not file his notice of appeal until October 1, 2012 and did not file a motion to extend the time for filing his notice of appeal. Therefore, this appeal is untimely and must be dismissed.

#### ORDER

IT IS ORDERED that appellant Stephen Kowalewski's appeal, dkt. #1, is DISMISSED for lack of jurisdiction. Appellee La Crosse County's motion to join the brief and appendix of Elliott Levine, dkt. #6, appellee Lynn Bodi's notice of intent to join the

brief and appendix of Elliott Levine, dkt. #7, and appellant's motion to strike appellee Elliott Levine's brief in response, dkt. #9, are DENIED as moot.

Entered this 1st day of April, 2013.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge