

FILED

DEC 22 2015

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

INTERNET BRANDS, INC., a Delaware corporation,

Plaintiff-counter-defendant -
Appellant,

v.

ULTIMATECOUPONS.COM, LLC, a New York Limited Liability Company, FKA JAG Ventures, LLC; JEFFREY A. GROSSMAN, an individual; ANDREW E. KARDON, an individual,

Defendants-counter-claimants
- Appellees.

No. 13-56900

D.C. No. 2:11-cv-05358-CAS-CW

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Christina A. Snyder, District Judge, Presiding

Submitted December 11, 2015**
Pasadena, California

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Before: NOONAN, LUCERO,^{***} and NGUYEN, Circuit Judges.

Internet Brands, Inc. seeks to appeal a district court judgment entered after a jury trial. We dismiss the appeal as untimely.

A notice of appeal must be filed within thirty days after the entry of the judgment from which a party appeals. Fed. R. App. P. 4(a)(1)(A). A motion for attorneys' fees does not toll the time to appeal unless "the district court extends the time to appeal under Rule 58." Fed. R. App. P. 4(a)(4)(A); see also Durham v. Kelly, 810 F.2d 1500, 1503 (9th Cir. 1987) ("motion to alter or amend a judgment to award costs" does not affect time to appeal).

The district court entered judgment on August 23, 2013. The judgment stated that the only outstanding issue was the calculation of attorneys' fees and costs due to Defendants-Appellees. Over the following two months, the only action taken by the district court was to hear and rule on motions for fees, and the court never expressly tolled the time for Internet Brands to appeal while the fees issue was pending. The issue of fees thus did not extend the time to appeal, and any appeal must have been filed by September 23, 2013 (because September 22, 2013 was a Sunday). Fed. R. App. P. 4(a)(1)(A), 26(a)(1). But Internet Brands did

^{***} The Honorable Carlos F. Lucero, Circuit Judge for the U.S. Court of Appeals for the Tenth Circuit, sitting by designation.

not file this appeal until November 5, 2013. The appeal was not timely, and we do not have jurisdiction to hear it. Bowles v. Russell, 551 U.S. 205, 214 (2007) (“[T]imely filing of a notice of appeal in a civil case is a jurisdictional requirement.”).

The appeal is **DISMISSED**.