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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

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9 Brenda K. Narada; Ty Estes Narada,
10 Appellants,

No. CV12-8188 PCT DGC

ORDER

11 v.

12 Social Security Administration,
13 Appellee.

14 Before the Court is the motion to dismiss filed by Appellants Brenda Narada and
15 Ty Narada. Doc. 5. Appellee Social Security Administration filed a response. Doc. 7.
16 The Parties have not requested oral argument. For the reasons stated below, the Court
17 will dismiss the appeal for lack of jurisdiction.

18 **I. Background.**

19 Appellants filed for chapter 7 bankruptcy. *In re Narada*, No. 2:10-bk-06136-
20 RTBP, Doc. 1 (Bankr. D. Ariz. Mar. 10, 2012). Appellee filed an adversary complaint
21 objecting to the discharge of a debt owed to it. *United States v. Narada*, No. 2:10-ap-
22 01163-RTBP, Doc. 1 (Bankr. D. Ariz. Nov. 26, 2010).

23 On April 18, 2012, Appellee filed a motion for summary judgment in the
24 bankruptcy court (*id.*, Doc. 57), which the court granted on August 21, 2012 (*id.*,
25 Doc. 69). Appellants filed a notice of appeal on August 29, 2012. *Id.*, Doc. 71. The
26 Clerk of the Bankruptcy Appellate Panel (“BAP”) issued an order indicating that the
27 appeal was filed prior to entry of a separate and final judgment. *Id.*, Doc. 75. That order
28 required Appellants to file, by September 28, 2012, “a written response either

1 1) explaining how the order on appeal is final and immediately reviewable;
2 2) demonstrating what steps appellant is taking to expeditiously obtain a final order; or
3 3) moving for leave to appeal.” *Id.* Appellee filed a statement electing to have the appeal
4 transferred to District Court (*id.*, Doc. 78), and the Court received the appeal on
5 September 18, 2012. Doc. 2. The BAP closed the case that same day. Doc. 7-2.

6 Appellants filed a motion to obtain final order with the bankruptcy court on
7 September 19, 2012. *Narada*, No. 2:10-ap-01163-RTBP, Doc. 80 (Bankr. D. Ariz.
8 Nov. 26, 2012). Appellants then filed a motion to dismiss the adversary proceeding on
9 November 9, 2012. *Id.*, Doc. 86.

10 The bankruptcy court entered a final judgment in favor of Appellee on
11 November 26, 2012. *Id.*, Doc. 90. On January 18, 2012, the bankruptcy court denied
12 Appellants’ motion to dismiss and advised the Parties that because final judgment had
13 been entered, “this matter is moot and [] nothing is pending.” *Id.*, Doc. 91.

14 **II. Discussion.**

15 “The provisions of Bankruptcy Rule 8002 are jurisdictional[.]” *In re Mouradick*,
16 13 F.3d 326, 327 (9th Cir. 1994). The notice of appeal from a bankruptcy court decision
17 must be filed within 14 days of the entry of judgment. Fed. R. Bankr. P. 8002(a). “[T]he
18 untimely filing of a notice of appeal deprives the appellate court of jurisdiction to review
19 the bankruptcy court’s order.” *In re Mouradick*, 13 F.3d at 327; *see also In re Souza*, 795
20 F.2d 855, 857 (9th Cir. 1986).

21 Appellants failed to file a notice of appeal, or any document for that matter, within
22 14 days of the bankruptcy court’s November 26, 2012, final judgment.¹ Accordingly, the
23 Court lacks jurisdiction to review the bankruptcy court’s judgment.

24 Appellants’ August 29, 2012, notice of appeal was based on an interlocutory order

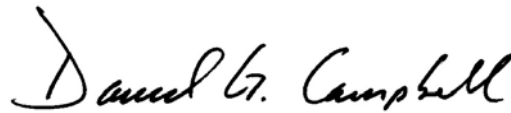
25 ¹ Even if the Court were to construe Appellants’ motion to dismiss (Doc. 5) – the
26 latest document Appellants filed with the Court – as Appellants’ opening brief, the appeal
27 would be untimely because Appellants filed it more than two weeks before the
28 bankruptcy court entered final judgment. *See Narada*, No. 2:10-ap-01163-RTBP, Doc.
90 (Bankr. D. Ariz. Nov. 26, 2012).

1 (see *Narada*, No. 2:10-ap-01163-RTBP, Docs. 69 & 75 (Bankr. D. Ariz. Nov. 26, 2012)),
2 and Appellants did not file a Rule 8003 motion for leave to appeal under 28 U.S.C.
3 § 158(a) with the BAP or this Court.² The Court lacks jurisdiction to hear the appeal.

4 **IT IS ORDERED:**

- 5 1. The appeal is dismissed for lack of jurisdiction.
- 6 2. The Clerk is directed to terminate this action.

7 Dated this 16th day of May, 2013.

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11 David G. Campbell
12 United States District Judge
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27 ² The memoranda filed by Appellants (Docs. 3 & 4) concern the merits of the
28 appeal and not the jurisdictional issue.