

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CIVIL MINUTES – GENERAL

Case No. CV 12-8791-DOC
Bankr. Case No. 11-52400-ER

Date: January 29, 2013

Title: IN RE: GERARD BOCHICCHIO

PRESENT:

THE HONORABLE DAVID O. CARTER, JUDGE

Julie Barrera
Courtroom Clerk

N/A
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF: ATTORNEYS PRESENT FOR DEFENDANT:

None Present

None Present

**PROCEEDING: (IN CHAMBERS): ORDER TO SHOW CAUSE WHY THIS
APPEAL SHOULD NOT BE DISMISSED**

On October 9, 2012, Appellant Gerard Bochicchio (Appellant) filed a Notice of Appeal from the Order of the Bankruptcy Court, Bankruptcy Judge Ernest M. Robles, determining Appellant's principle residence and dismissing his case. *See* Not. of Appeal (Dkt. 2).

On November 16, 2012, the District Court Clerk's Office docketed a Certificate of Readiness with respect to that appeal, and this Court issued a Notice regarding the briefing schedule that instructed Appellant to file and serve his opening brief "not later than 12/03/12," with Appellee HSBC Bank USA's brief to be filed and served not later than 14 days after service of Appellant's opening brief, and Appellant's Reply to be filed and served not later than 14 days after that. *See* Not. Re: Briefing Schedule (Dkt. 7). These deadlines were set pursuant to Federal Rule of Bankruptcy Procedure 8009(a). The Notice also stated that extensions of time for briefing "are not favored," and any application or motion for extension "shall be served well before the due date and shall be accompanied by a declaration stating the date the brief is due," and shall "state the reason(s) why such an extension is necessary." *Id.*

At present, Appellant has not filed an opening brief, nor has he filed a motion or application for an extension. Accordingly, the Court ORDERS Appellant to SHOW CAUSE why this Court should not dismiss his appeal. *See* Fed. R. Bankr. P. 8001(a)

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(“An appellant’s failure to take any step other than timely filing a notice of appeal . . . is ground only for such action as the district court . . . deems appropriate, which may include dismissal of the appeal.”) If Plaintiff wishes to file a late opening brief, he must respond to this order on or before **February 11, 2013**, and his response must include a declaration stating the reasons why he failed to file on time and why he failed to request an extension before his deadline.

If Appellant fails to respond to the order on or before **February 11, 2013**, the Court is inclined to dismiss his appeal pursuant to Federal Rule of Bankruptcy Procedure 8001(a).

The Clerk shall serve a copy of this minute order on counsel for all parties in this action.

MINUTES FORM 11
CIVIL-GEN

Initials of Deputy Clerk: jcb