

United States District Court  
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

	)	Case No. C 07-0201 SC
	)	
JEFF POKORNY, et al.,	)	ORDER GRANTING MOTION TO REOPEN
	)	<u>TIME TO APPEAL</u>
Plaintiffs,	)	
	)	
v.	)	
	)	
QUIXTAR, INC., et al.,	)	
	)	
Defendants.	)	
	)	
	)	
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	)	
	)	

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This order concerns non-party Dennis Obado's pending appeal of the Court's July 3, 2013 order denying his request to retract his choice to opt out of the class. See ECF Nos. 288 ("Order"), 306 ("Notice of Appeal").

The Ninth Circuit noted that Mr. Obado's October 11, 2013 notice of appeal was not filed within thirty days of the Court's Order, though Mr. Obado contends that this was because he did not receive the Order until October 8, 2013. The Ninth Circuit interpreted Mr. Obado's statements on this issue as a motion for the district court to reopen time to appeal under Federal Rule of

1 Appellate Procedure 4(a)(6). The Ninth Circuit then remanded  
2 consideration of that motion to the Court.

3 Federal Rule of Appellate Procedure 4(a)(6) allows the Court  
4 to reopen time to file an appeal for fourteen days after the entry  
5 date of the order to reopen time, but only if the following  
6 conditions are satisfied:

7  
8 (A) the court finds that the moving party did not  
9 receive notice under Federal Rule of Civil Procedure  
10 77(d) of the entry of the judgment or order sought to be  
11 appealed within 21 days after entry;

12 (B) the motion is filed within 180 days after the  
13 judgment or order is entered or within 14 days after the  
14 moving party receives notice under Federal Rule of Civil  
15 Procedure 77(d) of the entry, whichever is earlier; and

16 (C) the court finds that no party would be prejudiced.

17 The Court notes that Mr. Obado likely did not receive notice of the  
18 Order because, as an opted-out class member, he is no longer  
19 associated with this case. Nevertheless, the Court finds that Mr.  
20 Obado's statements are sufficient for the Court to reopen his time  
21 to appeal. His motion is GRANTED.

22 IT IS SO ORDERED.

23 Dated: January 8, 2014

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26 UNITED STATES DISTRICT JUDGE  
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