

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

EVERALD ROGERS SOBERS,

Appellant,

v.

1:16-cv-420-WSD

**ALBERTELLI LAW and
CALIBER HOME LOANS, INC.,**

Appellees.

OPINION AND ORDER

This matter is before the Court on Appellees Albertelli Law and Caliber Home Loans, Inc.’s (“Appellees”) Motions to Dismiss [2] [7].

I. BACKGROUND

On March 31, 2014, Appellant Everalld Rogers Sobers (“Appellant”), proceeding *pro se*, filed a no asset Chapter 7 Petition in the United States Bankruptcy Court for the Northern District of Georgia, petition number 14-56438-bem (“Sobers Bankruptcy Case”). On August 14, 2014, the Bankruptcy Court closed the Sobers Bankruptcy Case. On September 22, 2014, the Bankruptcy Court reopened the case for the limited purpose of granting Ms. Sobers a discharge, and, on the same day, the Bankruptcy Court again closed the case.

On June 3, 2015, Appellant filed an adversary proceeding, case number 15-05250-bem. On January 15, 2016, the Bankruptcy Court entered an order granting Appellee Albertelli Law's motion to dismiss ("Dismissal Order"). ([7.1]). On January 17, 2016, the Bankruptcy Court served a copy of the Dismissal Order on all parties of record, including Appellant. ([7.3]). On January 21, 2016, the Bankruptcy Court entered a separate judgment in favor of Albertelli Law and dismissed all claims against it ("Albertelli Judgment"). ([7.2]). On January 23, 2016, the Bankruptcy Court served a copy of the Albertelli Judgment on all parties of record, including Appellant. ([7.4]).

On February 10, 2016, Appellant filed in this Court his Notice of Appeal of the Dismissal Order and the Albertelli Judgment [1].

On March 9, 2016, Appellee Caliber Home Loans, Inc., filed its Motion to Dismiss the appeal [2]. On March 25, 2016, Appellee Albertelli Law filed its Motion to Dismiss the appeal [7]. Appellees seek dismissal of this appeal, arguing that the Notice of Appeal was not timely filed. Appellant did not respond to either motion, and the Motions to Dismiss are deemed unopposed. See LR 7.1(B), NDGa.

II. ANALYSIS

Appellees argue that the Notice of Appeal was not timely filed. Federal Rule of Bankruptcy Procedure 8002(a)(1) provides that “a notice of appeal must be filed with the bankruptcy clerk within 14 days after the entry of the judgment, order, or decree being appealed.” Fed. R. Bankr. P. 8002(a)(1). The Eleventh Circuit Court of Appeals has held that a district court lacks jurisdiction over a notice of appeal filed after the fourteen-day period under Rule 8002(a)(1). See In re Williams, 216 F.3d 1295, 1298 (11th Cir. 2000) (“If the notice is not timely filed, the appellate court is without jurisdiction to hear the appeal.” (internal quotation marks omitted) (quoting Advanced Estimating Sys., Inc. v. Riney, 77 F.3d 1332, 1323 (11th Cir. 1996))).

The Bankruptcy Court entered its Dismissal Order on January 15, 2016. The Bankruptcy Court entered the Albertelli Judgment on January 21, 2016. Appellant had fourteen days—until January 29, 2016—to file his Notice of Appeal of the Dismissal Order. Appellant had until February 4, 2016, to file his Notice of Appeal of the Albertelli Judgment. Appellant’s Notice of Appeal, filed on February 10, 2016, is beyond both of these filing deadlines and is thus untimely. Because the Court lacks jurisdiction to hear this bankruptcy appeal, Appellees’ Motions to Dismiss are granted. See Williams, 216 F.3d at 1298.


III. CONCLUSION

For the foregoing reasons,

IT IS HEREBY ORDERED that Appellees Albertelli Law and Caliber Home Loans, Inc.'s Motions to Dismiss [2] [7] are **GRANTED**.

IT IS FURTHER ORDERED that this action is **DISMISSED** for lack of subject-matter jurisdiction.

SO ORDERED this 25th day of August, 2016.



WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE