

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

In re:

Ronald D. Joling and
Dorothea J. Joling,

Debtors.

Case No. 6:14-cv-00404-AA
Bankr. No. 11-66166-fra7
Adv. Proc. No. 12-06043-fra

Joseph J Charter,

Plaintiff,

v.

Antioch Ministries,

Defendant.

AIKEN, Chief Judge:

Debtors Ronald and Dorothea Joling, appearing pro se, appeal a ruling of the Bankruptcy Court. Plaintiff-appellee Charter moves for an order dismissing the appeal, on grounds that the debtors did not file a timely notice of appeal and the court thus lacks jurisdiction over the appeal. The motion is granted.

1 - OPINION AND ORDER

On December 2, 2013, defendant Antioch Ministries filed a Motion for Relief from Declaratory Judgment in the adversary proceeding. On January 10, 2014, the bankruptcy court denied the motion. On January 27, 2014, appellant filed a notice of appeal. The debtors did not file a motion to extend time with the bankruptcy court. On March 17, 2014, appellee moved to dismiss on the ground that the debtors' notice of appeal was untimely.

A notice of appeal must be filed "within 14 days of the date of the entry of the judgment, order, or decree appealed from." Fed. R. Bankr. P. 8002(a). "The provisions of Bankruptcy Rule 8002 are jurisdictional; the untimely filing of a notice of appeal deprives the appellate court of jurisdiction to review the bankruptcy court's order." In re Mouradick, 13 F.3d 326, 327 (9th Cir. 1994). Thus, if a notice of appeal is not filed in a timely matter, the district court lacks authority to hear the appeal.

Here, debtors filed their notice of appeal beyond the fourteen-day appeal period. Further, debtor failed to file a written motion to the bankruptcy court to extend the time for filing an appeal. Fed. R. Bankr. P. 8002(c)(1). The court must adhere to the law as set forth by the Federal Bankruptcy Rules and the Court of Appeals for the Ninth Circuit. Under those rules, appellant's notice of appeal is untimely, and the court has no authority to hear this appeal.

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CONCLUSION

Appellee's Motion to Dismiss Appeal (doc. 10) is GRANTED. The debtors' Appeal is HEREBY DISMISSED.

IT IS SO ORDERED.

DATED this 2nd day of June, 2014.



Ann Aiken
United States District Judge