

1 **UNITED STATES BANKRUPTCY COURT**
2 **Eastern District of California**
3

4 In re)
5 Kari Ann Peck,)
6 Debtor.)
7 _____
8 Adrian Maaskant,)
9 Plaintiff,)
10 v.)
11 Kari Ann Peck,)
12 Defendant.)
13 _____

Case No. 01-11815

Adv. No. 01-1125-D

13 **ORDER DENYING PLAINTIFF'S MOTION**
14 **TO EXTEND TIME FOR FILING NOTICE OF APPEAL**

15 Plaintiff Adrian Maaskant, the prevailing party in this adversary proceeding, has
16 filed a motion to extend the time for filing a notice of appeal. The judgment in his favor
17 was filed and entered on September 30, 2005, and a copy of the judgment was served the
18 same day by the Clerk of Court on counsel for the plaintiff. As neither plaintiff nor his
19 counsel have ever sought to file with the court a substitution of attorney, service as
20 effected by the Clerk was proper. A copy of the court's record regarding parties is
21 attached as Appendix A and a review of the extensive docket in this matter confirms that
22 a substitution of attorney was never filed by the plaintiff.

23 Pursuant to Federal Rule of Bankruptcy Procedure 8002, plaintiff had ten days in
24 which to file a notice of appeal. In this particular case, because of the Columbus Day
25 holiday, plaintiff had eleven days in which to file the notice of appeal. As plaintiff has
26 previously filed a notice of appeal, he is no stranger as to either the requirements for
27 doing so nor the relatively simple amount of paperwork involved having done so on a
28 prior occasion. The proof of service of the motion, a copy of which is attached as

1 Appendix B hereto, shows that the subject motion was served on October 7, 2005, some
2 four days before the deadline for filing the notice of appeal. The filing of a notice of
3 appeal would have involved far less work than the filing of the motion.

4 Plaintiff's view is that the Federal Rules of Bankruptcy Procedure must all be
5 modified to suit his individual needs. Plaintiff has not met his burden of showing that a
6 notice of appeal could not have been timely filed or that excusable neglect exists that
7 would allow an extension of time.

8 Plaintiff's motion also requests an extension of time to have the clerk tax costs.
9 No rule or statute has been cited by the plaintiff which limits his time to do so.
10 Accordingly, the court declines to act on that motion.

11
12 Dated: October 14, 2005

/s/ Brett Dorian

13 Brett Dorian
14 United States Bankruptcy Judge
15
16
17
18
19
20
21
22
23
24
25
26
27
28