

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

In re Jordana M. Bauman

No. 24-CV-1564 JLS (BLM) (S.D. Cal. Mar. 14, 2025) · No. 24-CV-1564 JLS (BLM) · Decided March 14, 2025

SUMMARY

The United States District Court for the Southern District of California orders pro se appellant Mel Marin to perfect his bankruptcy appeal by April 3, 2025. The court warns that failure to comply with Federal Rule of Bankruptcy Procedure 8009 may result in dismissal and vacates the remaining briefing deadlines pending perfection of the record.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Janis L. Sammartino
JURISDICTION	United States District Court for the Southern District of California
DECIDED	March 14, 2025
DOCKET	24-CV-1564 JLS (BLM)
DISPOSITION	other
PROCEDURAL POSTURE	Bankruptcy appeal in which the appellant repeatedly failed to perfect the appellate record as required by Federal Rule of Bankruptcy Procedure 8009. The district court issued an order to show cause and granted a final extension to perfect the appeal.
PRECEDENTIAL VALUE	Nonprecedential procedural order
PARTIES	Mel Marin v. Michael Koch

TOPICS

- appellate procedure
- bankruptcy
- civil procedure

PRACTICE AREAS

- bankruptcy
- federal appellate procedure
- civil procedure

QUESTIONS PRESENTED

1. Whether the appellant should be required to perfect the bankruptcy appeal in compliance with Federal Rule of Bankruptcy Procedure 8009 after repeated deficiencies in transmitting the record.
2. Whether the court should vacate existing briefing deadlines pending perfection of the appellate record.

HOLDINGS

1. The appellant was ordered to perfect the record on appeal in accordance with Federal Rule of Bankruptcy Procedure 8009 by April 3, 2025; failure to do so could result in dismissal of the appeal.
2. All other briefing deadlines were vacated pending the appellant's perfection of the appellate record.

KEY QUOTATIONS

“The Court cautions Appellant again that failure to perfect his appeal, this time by April 3, 2025, may result in dismissal of this appeal.” (at 2)

FACTUAL BACKGROUND

Marin filed an appeal from an underlying bankruptcy matter and submitted materials that did not satisfy the requirements for transmitting the record on appeal. The record was not submitted on electronic media in the required manner, and a later submission contained multiple PDF files collectively exceeding 35 MB. Despite prior extensions and instructions, the appeal remained unperfected.

PROCEDURAL HISTORY

Mel Marin filed a bankruptcy appeal on September 4, 2024, followed by motions for in forma pauperis status, stays, extensions, and clarification. The district court granted in forma pauperis status, denied the requested stays, and repeatedly ordered Marin to perfect the record under Rule 8009. After notices that the appeal remained unperfected because the electronic record was improperly submitted and exceeded the applicable size limit, the court ordered Marin to perfect the appeal by April 3, 2025, vacated all other briefing deadlines, and warned that failure to comply could result in dismissal.

DISPOSITION

other

CASES CITED

- Omstead v. Dell, Inc., 594 F.3d 1081, 1084 (9th Cir. 2010)
- In re Marsh, 9 F. App'x 727, 729 (9th Cir. 2001)

OPINION

In Re: Jordana Marinkovic Bauman

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10

11 IN RE: JORDANA M. BAUMAN, Case No.: 24-CV-1564 JLS (BLM)

12 Debtor,

ORDER TO SHOW CAUSE

13 14 15

MEL MARIN,

16 Appellant, 17

18 MICHAEL KOCH,

Appellee. 19 20 On September 4, 2024, pro se Appellant Mel Marin filed a bankruptcy appeal.¹
ECF

21 No. 1. Appellant subsequently filed a Motion for Extension of Time to File Requests to
22 Proceed in Forma Pauperis (“IFP”), followed by his Motion for Leave to Proceed IFP. 23 ECF
Nos. 7, 8. Then, on October 21, 2024, Appellant filed Emergency Motions to Stay 24 Pending
Appeal and to Stay the State Court Action. ECF Nos. 11, 12. The case, originally 25 assigned to
Judge James E. Simmons, was subsequently transferred to this Court. ECF 26 27 1 Notably,
Appellant represents he is the brother of the Debtor in the underlying action, Jordana Bauman, 28
1 No. 14. On October 31, 2024, the Court granted Appellant’s Motion for Leave to Proceed
2 IFP, but denied Appellant’s Emergency Motions.² ECF No. 15. The Court then ordered 3 the
Parties to perfect the record in accordance with Federal Rule of Bankruptcy Procedure 4 8009 on
or before January 16, 2025. ECF No. 16 at 2. 5 On December 13, 2024, Appellant filed a Motion
to Clarify Status After Bankruptcy 6 Filing, notifying the Court of his own bankruptcy filing and
suggesting that the case be 7 stayed. ECF No. 17. The Court denied Appellant’s Motion as
Appellant had not 8 adequately explained why such stay was justified. ECF No. 18 at 2. 9 On
January 16, 2025, the Court received Appellant’s Designation of Record and 10 Points to Be
Raised. ECF No. 19. Appellee Michael Koch then filed Supplements to 11 Transmittal of Appeal,
including Appellee’s Designation of Record on Appeal and 12 Appendix, and Appellee’s
Certificate that Transcript is Not Being Requested. ECF

13 Nos. 20, 21. However, on February 13, 2025, Appellant filed a Motion for Clarification
14 and Extension of Time to Perfect the Record, citing issues with a “bankruptcy window 15
clerk” and confusion with the Court’s prior Order. See generally ECF No. 22. On
16 February 20, 2025, the Court received a Notice of Unperfected Appeal, indicating that
17 Appellant had not taken action to perfect this appeal as provided by Federal Rule of 18
Bankruptcy Procedure 8009 because the record on appeal was not submitted by electronic 19
media, as required. ECF No. 23. Later that same day, Appellant filed a Motion to Stay the 20
Appeal to Allow the Lower Court to Correct the Record. ECF No. 24. 21 In its Order on February
21, 2025, the Court noted its concern with Appellant’s 22 repeated filings requesting clarification,
extensions, or stays of this appeal. ECF No. 25 23 at 4. Nonetheless, the Court granted Appellant’s

Motion for an Extension of Time to 24 Perfect the Record and denied his Motion for Stay. Id. The Court ordered Appellant to 25 perfect the record on appeal in accordance with Federal Rule of Bankruptcy 26 27 2 The Court also denied Debtor Jordana Bauman’s Motion for Leave to Proceed IFP (ECF No. 9) as 28 1 || Procedure 8009 on or before March 7, 2025, and advised no further extension would be 2 || granted absent extraordinary circumstances. Id. at 4—5. 3 On March 7, 2025, Appellant filed a Supplement to Transmittal of Appeal. ECF 4 ||No. 26. However, on March 11, 2025, the Court received another Notice of Unperfected 5 || Appeal, indicating that Appellant had not taken action to perfect this appeal as provided by 6 || Federal Rule of Bankruptcy Procedure 8009. ECF No. 31. Specifically, the Notice advises 7 || that the “electronic media contains multiple PDF files that collectively exceed 35 MB” and 8 directs Appellant to the requirements sent on September 3, 2024, entitled “Important Tips 9 || Regarding the Attached Notice of Appeal.” Id. 10 Given this deficiency, the Court ORDERS Appellant to perfect his appeal by April 11 ||/3, 2025. The Court cautions Appellant again that failure to perfect his appeal, this time by 12 || April 3, 2025, may result in dismissal of this appeal. See, e.g., Fed. R. Bankr. P. 8003(a)(2), 13 || 8020(b); *Omstead v. Dell, Inc.*, 594 F.3d 1081, 1084 (9th Cir. 2010); see also *In re Marsh*, 14 F. App’x 727, 729 (9th Cir. 2001) (holding that a three month delay in designating the 15 ||record on appeal was an “inexcusably flagrant violation of the court’s rules” and warranted 16 || dismissal). 17 The Court accordingly VACATES all other briefing deadlines on this appeal, to be 18 || reset if and when Appellant perfects the record. 19 IT IS SO ORDERED. 20 || Dated: March 14, 2025 . tt 21 jen Janis L. Sammartino 9 United States District Judge 23 24 25 26 27 9g ||* The Court notes the document “Important Tips Regarding the Attached Notice of Appeal” can also be found at ECF No. 1-3 at 5 (CM/ECF pagination).