

JUN 10 2010

SUSAN M SPRAUL, CLERK  
U.S. BKCY. APP. PANEL  
OF THE NINTH CIRCUIT

NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY APPELLATE PANEL  
OF THE NINTH CIRCUIT

5	In re:	)	BAP No. CC-09-1388-DuMkJa
6	NICOLE MARIE WRIGHT,	)	
7	Debtor.	)	Bk. No. 09-22372-EMR
8	_____	)	
9	SEP KAMJOO,	)	Adv. Proc. No. 09-2009-EMR
10	Appellant,	)	
11	v.	)	<b>M E M O R A N D U M</b> <sup>1</sup>
12	NICOLE MARIE WRIGHT,	)	
13	Appellee.	)	
	_____	)	

Argued and Submitted on May 20, 2010  
at Pasadena, California

Filed - June 10, 2010

Appeal from the United States Bankruptcy Court  
for the Central District of California

Honorable Ernest M. Robles, Bankruptcy Judge, Presiding

Before: DUNN, MARKELL and JAROSLOVSKY,<sup>2</sup> Bankruptcy Judges.

Sep Kamjoo ("Kamjoo") appeals the bankruptcy court's  
decision to dismiss as untimely his complaint objecting to the

<sup>1</sup> This disposition is not appropriate for publication.  
Although it may be cited for whatever persuasive value it may  
have (see Fed. R. App. P. 32.1), it has no precedential value.  
See 9th Cir. BAP Rule 8013-1.

<sup>2</sup> Hon. Alan Jaroslovsky, U.S. Bankruptcy Judge for the  
Northern District of California, sitting by designation.

1 discharge of the debtor, Nicole Marie Wright, under § 727(a), and  
2 seeking to except the debtor's debt to Kamjoo from discharge  
3 under § 523(a)(2) and (a)(6) ("complaint").<sup>3</sup> We AFFIRM.

4  
5 **FACTS**

6 The debtor filed her chapter 7 petition on May 20, 2009.  
7 She scheduled Kamjoo as a general unsecured creditor. The clerk  
8 of the bankruptcy court sent to creditors Official Form 9A,  
9 "Notice of Chapter 7 Bankruptcy Case, Meeting of Creditors,  
10 & Deadlines" ("notice"). The notice listed August 17, 2009 as  
11 the deadline to file complaints to determine the dischargeability  
12 of debts and to object to the debtor's discharge. The  
13 certificate of service for the notice listed Kamjoo among the  
14 creditors served with the notice.

15 Kamjoo's attorney did not file a motion to extend the time  
16 to file the complaint prior to the deadline. Ten minutes before  
17 midnight on August 17, 2009, Kamjoo's attorney attempted to file  
18 the complaint electronically. However, due to technical  
19 difficulties, Kamjoo's attorney did not electronically file the  
20 complaint until August 18, 2009, at 12:09 a.m.

21 The debtor moved to dismiss the complaint as untimely under  
22 Rules 4004(a) and 4007(c) ("motion").<sup>4</sup> Kamjoo opposed the motion,  
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24 <sup>3</sup> Unless otherwise indicated, all chapter, section and rule  
25 references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1532, and  
to the Federal Rules of Bankruptcy Procedure, Rules 1001-9037.

26 <sup>4</sup> The notice prefacing the motion stated that the motion  
27 would be based on, among other things, "such supplemental  
28 declarations, affidavits, . . . [and] such oral and documentary  
evidence as may be presented at the hearing of the application."  
Notice to the Motion, ii at 10-13. The debtor served the motion,  
(continued...)

1 contending that a technical failure prevented him from timely  
2 filing the complaint. He further argued that, in light of her  
3 "dishonesty and unscrupulous acts," the debtor was not entitled  
4 to a discharge of her debts. Given these circumstances, Kamjoo  
5 asked that the bankruptcy court use its authority under § 105(a)<sup>5</sup>  
6 to apply "equitable principles" to allow the complaint to  
7 proceed.

8 Before the October 27, 2009 hearing on the motion, the  
9 bankruptcy court issued a tentative ruling in the debtor's favor.  
10 Relying on an earlier BAP decision, Schunck v. Santos  
11 (In re Santos), 112 B.R. 1001 (9th Cir. BAP 1990), the bankruptcy  
12 court determined that neither equitable tolling nor equitable  
13 estoppel could be applied to preserve the claims stated in the  
14 complaint once the deadline had expired.

15 The BAP in Santos determined that both doctrines were at  
16 odds with the procedural purposes of Rules 4004(a) and 4007(c).<sup>6</sup>  
17 Id. at 1006-08. "Any application of equitable doctrines[,]" the

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18  
19 <sup>4</sup>(...continued)  
20 with the notice, on Kamjoo's attorney on September 15, 2009,  
21 forty-two days before the hearing.

22 The bankruptcy court treated the motion, in effect, as a  
23 motion for summary judgment on the affirmative defense of  
24 Kamjoo's failure to file the complaint timely.

25 <sup>5</sup> Section 105(a) provides: "The court may issue any order,  
26 process, or judgment that is necessary or appropriate to carry  
27 out the provisions of this title. No provision of this title  
28 providing for the raising of an issue by a party in interest  
shall be construed to preclude the court from, sua sponte, taking  
any action or making any determination necessary or appropriate  
to enforce or implement court orders or rules, or to prevent an  
abuse of process."

<sup>6</sup> The bankruptcy court noted that Kamjoo did not specify  
which equitable principle it should apply.

1 BAP reasoned, "must be consistent with the language and purpose  
2 of [Rules 4004(a) and 4007(c)]." Id. at 1009. The BAP noted  
3 that both doctrines provide a plaintiff relief from deadlines  
4 because certain circumstances prevented him or her from timely  
5 initiating an action.<sup>7</sup> See id. at 1006-08. The BAP explained  
6 that Rules 4004(a) and 4007(c) plainly establish, however, a  
7 specific limitations period and a specific procedure by which to  
8 extend the time to file a complaint under §§ 523(a) and 727(a).  
9 Id. Because equitable tolling was contrary to the plain language  
10 of Rules 4004(a) and 4007(c), the BAP concluded, it could not be  
11 applied to allow an untimely complaint to proceed. Id. at  
12 1006-07. The BAP also concluded that, under the facts of the  
13 case before it, equitable estoppel could not be applied because  
14 the creditor could not rely on the debtor's conduct in forbearing  
15 from filing a complaint when the rules provided that the creditor  
16 must move to extend the deadline before it expires. Id. at 1007.

17 In light of the BAP's holding in Santos, the bankruptcy  
18 court summarily declined to apply equitable tolling to relieve  
19 Kamjoo from the untimeliness of the complaint. It also declined  
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21 <sup>7</sup> Equitable tolling holds that the limitations period does  
22 not run while the plaintiff is unaware of his or her claim(s) for  
23 relief through no fault of his or her own. See id. at 1006-07.  
24 The BAP determined that Rules 4004(a) and 4007(c) clearly state,  
25 however, that the 60-day limitations period begins to run on the  
26 date of the § 341(a) meeting. Id.

27 Equitable estoppel provides the plaintiff relief from the  
28 deadline when he or she reasonably relied on the defendant's  
words or conduct in refraining from timely filing suit. The BAP  
determined that Rules 4004(a), 4007(c) and 9003(b)(3) clearly  
provide, however, that only the court may provide relief from the  
deadline upon a motion filed before the deadline. Id. at  
1007-08.

1 to apply equitable estoppel because Kamjoo made no assertions  
2 that the debtor spoke or acted in a way that caused him to  
3 forbear from timely filing the complaint.

4 The bankruptcy court further determined that Kamjoo was not  
5 prevented from timely filing his complaint by a technical failure  
6 as defined under § 3-12 of the CM/ECF Procedures ("CM/ECF  
7 Procedure § 3-12").<sup>8</sup> The bankruptcy court observed that the  
8 "technical problem" Kamjoo experienced was probably due to his  
9 attempt to file the complaint in PACER, the bankruptcy court's  
10 electronic docket viewing system, instead of in CM/ECF, the  
11 bankruptcy court's electronic filing system.<sup>9</sup> However, the  
12 bankruptcy court concluded that the exact reason for Kamjoo's  
13 difficulties did not matter, as whatever caused them was not  
14 system-wide.

15 At the hearing, Kamjoo's attorney asked that the bankruptcy  
16 court continue the hearing so that he could obtain records  
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18 <sup>8</sup> The CM/ECF Procedures are incorporated into the Local  
19 Rules of the Central District of California, and thus are binding  
20 on Appellant. See Bankr. C.D. Cal. R. 5005-4(a) ("all papers  
21 submitted in any case or proceeding must be filed electronically,  
22 signed or verified by electronic means in compliance with the  
23 court's CM/ECF Procedures contained in the Court Manual available  
24 from the clerk and on the court's website."). The Court Manual  
25 containing the CM/ECF Procedures is available at  
[http://www.cacb.uscourts.gov/cacb/Publications.nsf/New%20Desk%20Reference%20Manual/2C7241F8300C35C48825752A002B211D/\\$FILE/CtManual\\_Sec3.pdf](http://www.cacb.uscourts.gov/cacb/Publications.nsf/New%20Desk%20Reference%20Manual/2C7241F8300C35C48825752A002B211D/$FILE/CtManual_Sec3.pdf).

26 <sup>9</sup> CM/ECF is the bankruptcy court's electronic filing system,  
27 which allows attorneys to file pleadings and other papers  
28 electronically with the bankruptcy court. PACER is the  
bankruptcy court's electronic docket viewing system, which allows  
attorneys and other parties to view documents filed with the  
bankruptcy court electronically.

1 demonstrating that he was logged into CM/ECF and not PACER. The  
2 bankruptcy court declined to do so because whether Kamjoo's  
3 attorney had been logged into CM/ECF or PACER was immaterial, as  
4 the untimeliness of the complaint was not due to a system-wide  
5 technical failure. The bankruptcy court adopted its tentative  
6 ruling at the hearing and incorporated it in its order entered on  
7 November 5, 2009.

8 Kamjoo timely appealed the bankruptcy court's order.  
9

#### 10 JURISDICTION

11 The bankruptcy court had jurisdiction under 28 U.S.C. § 1334  
12 and 157(b)(2)(I) and (J). We have jurisdiction under 28 U.S.C.  
13 § 158.  
14

#### 15 ISSUE

16 Whether the bankruptcy court erred in dismissing Kamjoo's  
17 complaint as untimely.  
18

#### 19 STANDARDS OF REVIEW

20 We review the bankruptcy court's interpretation of the Rules  
21 de novo and its factual findings for clear error. Moody v.  
22 Bucknum (In re Bucknum), 951 F.2d 204, 206 (9th Cir. 1991). We  
23 accept the bankruptcy court's factual findings unless we have a  
24 definite and firm conviction that a mistake has been committed.  
25 Aalfs v. Wirum (In re Straightline Invs., Inc.), 525 F.3d 870,  
26 876 (9th Cir. 2008).

27 A motion to dismiss under Fed. R. Civ. P. 12(b)(6) may be  
28 treated as a motion for summary judgment if matters outside the

1 pleadings are submitted. Jacobson v. AEG Capital Corp., 50 F.3d  
2 1493, 1496 (9th Cir. 1995). We review de novo summary judgment  
3 orders. Far Out Prods., Inc. v. Oskar, 247 F.3d 986, 992  
4 (9th Cir. 2001). Viewing the evidence in the light most  
5 favorable to the non-moving party, we must determine whether any  
6 genuine issues of material fact exist and whether the bankruptcy  
7 court correctly applied the relevant substantive law. Id.

8 This appeal appears to present mixed questions of law and  
9 fact because the primary facts and rules of law are undisputed,  
10 but the question is whether the bankruptcy court correctly  
11 applied the relevant procedural rules (i.e., Rules 4004(a) and  
12 4007(c)) to the facts, as gleaned from the evidence presented.  
13 See, e.g., Murray v. Bammer (In re Bammer), 131 F.3d 788, 792  
14 (9th Cir. 1997). We review de novo mixed questions of law and  
15 fact because "they require consideration of legal concepts and  
16 the exercise of judgment about the values that animate legal  
17 principles." Id.

#### 18 19 **DISCUSSION**

20 Kamjoo advances two main arguments in support of his appeal.  
21 He first asserts that CM/ECF Procedure § 3-12 provides him relief  
22 from the deadline when a technical failure delayed the filing of  
23 the complaint. He next contends that a bankruptcy court may use  
24 its equitable powers under § 105(a) to allow an untimely  
25 complaint to proceed when extraordinary circumstances delayed its  
26 filing. Based on our review of the applicable law and  
27 procedures, we conclude that both arguments lack merit.

1 A. CM/ECF Procedure § 3-12

2 The bankruptcy court concluded that Kamjoo did not  
3 experience a "technical failure" as defined by CM/ECF Procedure  
4 § 3-12 when he attempted to file the complaint. Reviewing  
5 e-mails between Kamjoo's attorney and ECF Support Desk  
6 representatives,<sup>10</sup> the bankruptcy court determined that Kamjoo's  
7 attorney untimely filed the complaint likely because he tried to  
8 file it in PACER. On appeal, Kamjoo insists that his attorney  
9 experienced a technical failure within the meaning of CM/ECF  
10 Procedure § 3-12 when filing the complaint.

11 CM/ECF Procedure § 3-12 provides, in relevant part:

12 An [sic] CM/ECF User whose filing is made untimely as a result of  
13 a technical failure may seek appropriate relief from the court.

14 (a) CM/ECF Outage Procedures. In the event that the  
15 Court is unable to accept electronic filings due to a  
16 scheduled or unscheduled failure or outage of CM/ECF  
17 (an "Outage"), the option of filing papers manually at  
18 the filing window always remains available and should  
19 be utilized whenever it is essential that a particular  
20 document be filed by a particular date.

21 In a footnote, it is noted that an "outage" refers to

22 an instance in which CM/ECF is not functional and does  
23 not refer to an instance in which your office or your  
24 internet service provider is having technical  
25 difficulties and you are therefore unable to accomplish  
26 an electronic filing. If there is an Outage within the  
27 meaning of these guidelines, you will receive an email  
28 to this effect from the ECF Help Desk, advising you  
that the system is unavailable. (Emphasis in  
original.)

29 Based on our review of the record, we conclude that the  
30 bankruptcy court did not err in determining that Kamjoo did not  
31 experience a technical failure as defined by CM/ECF  
32 Procedure § 3-12.

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<sup>10</sup> Kamjoo provided copies of the e-mails as exhibits to his  
opposition to the motion ("opposition").

1 In his first e-mail to the ECF Support Desk, Kamjoo claimed  
2 that he did not see the option to file a complaint on the screen.  
3 A representative from the ECF Support Desk explained that if  
4 Kamjoo's attorney did not see the selection, "Bankruptcy and  
5 Adversary Events," at the top menu bar, he was in PACER.  
6 Kamjoo's attorney responded that, though he had logged into  
7 CM/ECF, the selection did not appear. He followed up with  
8 another e-mail to the ECF Support Desk, asking whether the system  
9 had a record of an error. Another representative from the ECF  
10 Support Desk noted that Kamjoo's attorney did not state that he  
11 received an error message. She surmised that, based on his  
12 statements, Kamjoo's attorney had been logged into PACER, which  
13 explained why he did not see the selection.

14 The CM/ECF Procedures defines a "technical failure" or an  
15 "outage" as an instance in which CM/ECF is not operational.  
16 Contrary to Kamjoo's assertion, it does not appear from the  
17 record that his attorney was prevented from filing the complaint  
18 because CM/ECF was not operational (i.e., experiencing an  
19 "outage").<sup>11</sup> Rather, as the e-mails reveal, the record tends to  
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21 <sup>11</sup> We also reviewed General Order No. 08-02 of the United  
22 States District Court of the Central District of California.  
23 General Order No. 08-02 authorized electronic filing in the  
24 Central District of California.

25 We note that, under Section II, Subsection S, "Notice of  
26 CM/ECF Unavailability," a "Notice of CM/ECF Unavailability" is  
27 defined as "a Public Notice from the clerk of the court regarding  
28 scheduled maintenance or other issues that make the CM/ECF system  
unavailable to CM/ECF Users." Under Section IV, Subsection M,  
"Technical Failures," if a CM/ECF User is unable to file a  
document electronically, he or she immediately must contact the  
ECF Support Desk if a "Notice of CM/ECF Unavailability" has not  
been posted on the CM/ECF website. We believe that General Order  
No. 08-02 further reinforces the definition of a "technical  
failure" as set forth under CM/ECF Procedure § 3-12.

1 establish that the complaint was untimely because Kamjoo's  
2 attorney tried to file it in the wrong system.<sup>12</sup> As the  
3 bankruptcy court noted at the hearing, a "technical failure"  
4 occurs when CM/ECF "is down, because of something that the court  
5 has done - we had a situation not too long ago when we were  
6 trying to make some upgrades to the system [that] took everything  
7 down. So I think that's the type of scenario that we're talking  
8 about." Tr. of October 27, 2009 Hr'g, 2:1-4. A "technical  
9 failure" does not include "a situation where there's nothing  
10 wrong with the program per se . . . ." Tr. of October 27, 2009  
11 Hr'g, 2:6-7. The bankruptcy court determined that the complaint  
12 was untimely filed because "[Kamjoo's attorney was] having an  
13 inability to log in." Tr. of October 27, 2009 Hr'g, 2:7-8.

14 Kamjoo moreover did not provide any evidence at the hearing  
15 to demonstrate that the untimely filing of the complaint was due  
16 to a technical failure, despite having forty-two days notice to  
17 do so. He did not raise any genuine issue of material fact to  
18 cause the bankruptcy court to reevaluate the evidence and adjust  
19 its determinations.

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21 <sup>12</sup> We also point out that, in his declaration in support of  
22 the opposition, Kamjoo's attorney claimed that, when he tried to  
23 file the complaint, "PACER was having technical issues and would  
24 not allow [him] to go ahead with the filing." (Emphasis added.)  
25 Declaration of A. David Youssefyeh, 21:12-13 (Adv. Proc. docket  
26 no. 11). We further note that it was stated in the opposition  
27 that Kamjoo's attorney "was having technical problems with  
28 PACER," that he had sent an e-mail to the ECF Support Desk  
regarding "the problems he was having with PACER" and he finally  
managed to proceed with the filing of the complaint "[a]fter  
logging in and out of PACER several times[.]" Opposition,  
3:27-28, 4:4-5, 4:6 (Adv. Proc. docket no. 11). (Emphasis  
added.)

1           Given these circumstances, we conclude that the bankruptcy  
2 court did not err in determining that Kamjoo did not experience a  
3 technical failure as defined by CM/ECF Procedure § 3-12.

4  
5 B.    Equitable Powers under Section 105(a)

6           The bankruptcy court declined to apply equitable principles  
7 under its § 105(a) authority to allow Kamjoo's untimely complaint  
8 to proceed. On appeal, Kamjoo contends that a bankruptcy court  
9 may use its equitable powers under § 105(a) to apply equitable  
10 tolling to allow an untimely complaint to proceed when a party  
11 has been prevented, by an "extraordinary circumstance," from  
12 asserting his or her rights. Here, Kamjoo claims, the technical  
13 problem was an "extraordinary circumstance" that prevented him  
14 from timely filing the complaint.

15          Kamjoo further argues that the bankruptcy court should have  
16 considered the debtor's "dishonesty and unscrupulous acts" as an  
17 additional justification for using its equitable powers under  
18 § 105(a). Given her conduct, Kamjoo asserts, the debtor is not  
19 entitled to a "fresh start." To give the debtor her "fresh  
20 start," he claims, would encourage others to use bankruptcy as a  
21 "tool to swindle legitimate [c]reditors." Appellant's Appendix  
22 [Opening Brief] at 10.

23          Kamjoo cannot avail himself of any equitable excuse for his  
24 failure to timely file his complaint, however, in light of  
25 prevailing Ninth Circuit authority. Generally, courts within the  
26 Ninth Circuit strictly construe Rules 4004(a) and 4007(c), which  
27 impose a 60-day time limit for filing complaints objecting to a  
28 debtor's discharge and the dischargeability of particular

1 debts.<sup>13</sup> See Classic Auto Refinishing, Inc. v. Marino  
2 (In re Marino), 37 F.3d 1354, 1358 (9th Cir. 1994); Anwiler v.  
3 Patchett (In re Anwiler), 958 F.2d 925, 927 (9th Cir. 1992);  
4 Jones v. Hill (In re Hill), 811 F.2d 484, 486-87 (9th Cir. 1987);  
5 Sam Michael Schreiber, M.D., Inc. v. Halstead (In re Halstead),  
6 158 B.R. 485, 487 (9th Cir. BAP 1993).<sup>14</sup> Courts in the Ninth  
7 Circuit have recognized, however, an exception to the 60-day time  
8 limit for "unique" or "extraordinary" circumstances.<sup>15</sup>  
9 Kennerley, 995 F.2d at 147. The "extraordinary circumstances"  
10 exception applies to situations where the bankruptcy court  
11 "explicitly misleads a party" into untimely filing its  
12 complaint.<sup>16</sup> Kennerley, 995 F.2d at 148 (citation

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14 <sup>13</sup> Rule 4004(a) provides, in relevant part: "In a chapter 7  
15 liquidation case a complaint objecting to the debtor's discharge  
16 under § 727(a) of the Code shall be filed no later than 60 days  
17 after the first date set for the meeting of creditors under  
18 § 341(a). . . ."

17 Rule 4007(c) provides, in relevant part: "Except as provided  
18 in subdivision (d), a complaint to determine the dischargeability  
19 of a debt under § 523(c) shall be filed no later than 60 days  
20 after the first date set for the meeting of creditors under  
21 § 341(a). . . ."

21 <sup>14</sup> Because the deadlines set by Rules 4004(a) and 4007(c)  
22 are identical, cases interpreting Rule 4007(c) apply in  
23 interpreting Rule 4004(a). Kontrick v. Ryan, 540 U.S. 443, 449  
24 n.3 (2004); Santos, 112 B.R. at 1004 n.2.

24 <sup>15</sup> Although courts have indicated in dicta that there is an  
25 exception to the 60-day time limit for "unique" or  
26 "extraordinary" circumstances, "the validity of the doctrine  
27 remains doubtful." Allred v. Kennerly (In re Kennerley),  
28 995 F.2d 145, 147 (9th Cir. 1993)(citing Anwiler, 958 F.2d at  
926-27 n.2).

28 <sup>16</sup> Anwiler first set forth the "exceptional circumstances"  
exception. In Anwiler, the bankruptcy court issued to creditors  
(continued...)

1 omitted)(emphasis in original). Under such "extraordinary  
2 circumstances," the bankruptcy court may use its equitable powers  
3 under § 105(a) to allow an untimely complaint to proceed. See  
4 Anwiler, 958 F.2d at 927 n.2, 929. "Absent action by the court  
5 that could have misled the creditor, there is no authority for  
6 finding 'extraordinary circumstances' that would allow for an  
7 untimely complaint to go forward." Classic Auto Refinishing,  
8 Inc. v. Marino (In re Marino), 143 B.R. 728, 733 (9th Cir. BAP  
9 1992), aff'd 37 F.3d 1354 (9th Cir. 1994).

10 Here, nothing in the record shows that the bankruptcy court  
11 acted in a way that misled Kamjoo into filing his complaint the  
12 day after the deadline. The notice clearly set forth the  
13 deadline to file complaints under §§ 523(c) and 727(a). Kamjoo  
14 has not alleged that the bankruptcy court or its clerk's office  
15 confused him; he simply did not timely file his complaint.  
16 Because Kamjoo fails to demonstrate that the "extraordinary  
17 circumstances" exception applies, we conclude that the bankruptcy  
18 court did not err in declining to use its § 105(a) authority to  
19 apply equitable principles to allow the untimely complaint to  
20 proceed.

21 Moreover, as the bankruptcy court pointed out, the debtor's  
22 alleged "dishonesty and unscrupulous acts" were unproven and  
23 could not provide a basis for excusing the untimely filing of  
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25 <sup>16</sup>(...continued)  
26 two notices that listed conflicting deadlines to file complaints  
27 under § 523(c) and § 727(a). The Ninth Circuit determined that  
28 if a party reasonably relied to its detriment on the bankruptcy  
court's conflicting notices, the bankruptcy court could use its  
equitable powers under § 105(a) to allow an untimely complaint to  
proceed. Id. at 926-29.

1 Kamjoo's complaint. In addition, equitable principles, such as  
2 equitable tolling, do not apply to relieve Kamjoo from the  
3 untimeliness of the complaint. As the BAP determined in Santos,  
4 equitable tolling cannot be applied to allow an untimely  
5 complaint to proceed as it is contrary to the procedural purposes  
6 plainly stated in Rules 4004(a) and 4007(c). The bankruptcy  
7 court did not err in declining to use its § 105(a) authority to  
8 relieve Kamjoo from the consequences of failing to file his  
9 complaint timely.

#### 11 CONCLUSION

12 We sympathize with the frustration of Kamjoo's counsel when  
13 he encountered technical difficulties in filing the complaint.  
14 We believe, however, that Kamjoo's attorney acted unwisely in  
15 attempting to file the complaint ten minutes before the deadline.  
16 By waiting until the last minute to file the complaint, Kamjoo  
17 ran the risk of encountering technical problems that might  
18 prevent his timely filing the complaint. "Deadlines may lead to  
19 unwelcome results, but they prompt parties to act and they  
20 produce finality." Taylor v. Freeland & Krantz, 503 U.S. 638,  
21 643 (1992). See also Merenda v. Brown (In re Brown), 102 B.R.  
22 187, 190 (9th Cir. BAP 1989) ("While application of the relatively  
23 short 60 day time limitation for filing nondischargeability  
24 complaints may lead to harsh results, there is a well recognized  
25 purpose and need to allow both debtors and creditors to know  
26 which debts may be excepted from discharge, and thereby allow all  
27 participants within the bankruptcy proceedings to make better  
28 informed decisions early in the proceedings.") (citation and

1 quotation marks omitted). Because we conclude that the  
2 bankruptcy court did not err in dismissing the complaint as  
3 untimely, we AFFIRM.

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