

AUG 21 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: ARNALDO D'ALFONSO and
LIBUSA D'ALFONSO,

Debtors,

LUISA BERISTAIN,

Appellant,

v.

ARNALDO D'ALFONSO; et al.,

Appellees.

No. 11-60046

BAP No. 11-1147

MEMORANDUM*

Appeal from the Ninth Circuit
Bankruptcy Appellate Panel
Dunn, Kirscher, and Markell, Bankruptcy Judges, Presiding

Submitted August 14, 2013**

Before: SCHROEDER, GRABER, and PAEZ, Circuit Judges.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Luisa Beristain appeals from the Bankruptcy Appellate Panel's ("BAP") order dismissing her appeal as untimely under Federal Rule of Bankruptcy Procedure 8002(a). We have jurisdiction under 28 U.S.C. § 158(d). We review de novo, *Wiersma v. Bank of the West (In re Wiersma)*, 483 F.3d 933, 938 (9th Cir. 2007), and we affirm.

The BAP properly dismissed the appeal because Beristain filed her notice of appeal more than fourteen days after entry of the bankruptcy court's order denying her motion for a new trial or to alter or amend a judgment. *See* Fed. R. Bankr. P. 8002(a) & (c) (establishing 14-day time period for filing a notice of appeal from a bankruptcy court decision and explaining that after the 14-day time period for filing a notice of appeal has elapsed, a bankruptcy judge may extend the time upon written motion showing excusable neglect); *In re Wiersma*, 483 F.3d at 938 ("The timely appeal requirement is jurisdictional."); *see also Keybar Invs., Inc. v. Cahn (In re Cahn)*, 188 B.R. 627, 632 (9th Cir. BAP 1995) ("It is well-settled that failure to receive notice of entry of judgment or order is not an excuse for an untimely appeal because it is the party's affirmative duty to monitor the dockets.").

Beristain's arguments about impediments to filing the notice of appeal are unpersuasive.

AFFIRMED.