

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA

JOHN MILEUSNIC,)	
)	
Appellant,)	
)	
v.)	CIVIL NO. 2:15cv121
)	
PLANET HOME LENDING LLC,)	
)	
Appellee.)	

OPINION AND ORDER

This matter is before the court on a “Motion to Dismiss Appeal”, filed by the Appellee, Planet Home Lending LLC , on April 24, 2015. The Appellant, John Mileusnic, proceeding *pro se*, filed a response, entitled “Memorandum to Oppose Dismissal Res Judicata”, on May 21, 2015. The Appellee filed its reply on May 29, 2015.

For the following reasons, the motion to dismiss will be granted.

Discussion

On November 23, 2014, Appellee filed its Motion by Secured Creditor for Relief From Stay and Abandonment of Property and Notice of Objection Deadline with 30-Day Waiver. Trustee David R. DuBois filed his objection on December 5, 2014. No objection was filed by Appellant. The basis for the trustee’s objection was formally withdrawn on March 12, 2014. With no other objections before the Court, Appellee’s Motion of November 23, 2014 was granted. It is, presumably, from this Order that the Appellant appeals. Appellant filed his appeal on March 31, 2015, but did not file an Appellate Brief, which was due on April 17, 2015, as per Rule 8009(a) of the Federal Rules of Bankruptcy Procedure.

Appellee has now requested that the appeal be dismissed for failing to give sufficient notice to Appellee as to the errors of the Bankruptcy Court and for failing to meet the deadline

set for filing the Appellate Brief.

The requirements of a Notice of Appeal are set forth in the Federal Rules of Bankruptcy Procedure. Rule 8003(a)(3) requires that the “notice of appeal must (A) conform substantially to the appropriate Official Form; (B) be accompanied by the judgment, order, or decree, or the part of it, being appealed, and (C) be accompanied by the prescribed fee. The Appellee notes that, in the present case, the Notice of Appeal does not substantially conform to the Official Form as it fails to specify the document from which it appeals, by date of the Order/Judgment or even document number. Appellee also points out that the Appellant further attempts to submit an additional 201 pages of “evidence” that has never been before the Bankruptcy Court through the Notice of Appeal. Furthermore, the Notice of Appeal does not include, as an attachment, the Judgment/Order from which Appellant appeals.

Although Appellant has filed a “Motion to Oppose Dismissal Res Judicata” rather than a response brief, the court will construe the motion as a response. However, Appellant has not addressed the issues presented by the Appellee’s motion to dismiss. Rather, the Appellant discusses Rule 12(b)(6) of the Federal Rules of Civil Procedure, which is not applicable to this bankruptcy appeal, and fails to explain why he did not file his Appellate brief by the April 17, 2015 deadline.

As the Appellant has not complied with the requirements set forth in the Federal Rules of Bankruptcy Procedure, his appeal will be dismissed.

Conclusion

On the basis of the foregoing, the Appellee’s Motion to Dismiss [DE3] is hereby

GRANTED. Further, the Appellant's Motion to Oppose Dismissal is hereby DEEMED MOOT.

Entered: August 11 , 2015.

s/ William C. Lee
William C. Lee, Judge
United States District Court