

FILED: January 28, 2020

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-1740
(1:18-cv-01322-TSE-MSN)

In re: ELIZABETH H. COOMES

Debtor

ELIZABETH H. COOMES, a/k/a Elizabeth Haring Coomes, d/b/a Old Town Insurance &
Financial

Debtor - Appellant

v.

THOMAS P. GORMAN, Chapter 13 Trustee

Trustee - Appellee

O R D E R

The court denies the petition for rehearing and appellant's motion to vacate order denying emergency motion to suspend appeal, appoint or assign counsel, extending filing time for petition for rehearing, and set briefing schedule.

Entered at the direction of the panel: Judge Agee, Judge Diaz, and Judge Harris.

For the Court

/s/ Patricia S. Connor, Clerk

FILED: December 6, 2019

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-1740
(1:18-cv-01322-TSE-MSN)

In re: ELIZABETH H. COOMES

Debtor

ELIZABETH H. COOMES, a/k/a Elizabeth Haring Coomes, d/b/a Old Town Insurance
& Financial

Debtor - Appellant

v.

THOMAS P. GORMAN, Chapter 13 Trustee

Trustee - Appellee

J U D G M E N T

In accordance with the decision of this court, this appeal is dismissed.

This judgment shall take effect upon issuance of this court's mandate in
accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

FILED: December 6, 2019

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUITNo. 19-1740, Elizabeth Coomes v. Thomas Gorman
1:18-cv-01322-TSE-MSN

NOTICE OF JUDGMENT

Judgment was entered on this date in accordance with Fed. R. App. P. 36. Please be advised of the following time periods:

PETITION FOR WRIT OF CERTIORARI: To be timely, a petition for certiorari must be filed in the United States Supreme Court within 90 days of this court's entry of judgment. The time does not run from issuance of the mandate. If a petition for panel or en banc rehearing is timely filed, the time runs from denial of that petition. Review on writ of certiorari is not a matter of right, but of judicial discretion, and will be granted only for compelling reasons. (www.supremecourt.gov)

VOUCHERS FOR PAYMENT OF APPOINTED OR ASSIGNED COUNSEL: Vouchers must be submitted within 60 days of entry of judgment or denial of rehearing, whichever is later. If counsel files a petition for certiorari, the 60-day period runs from filing the certiorari petition. (Loc. R. 46(d)). If payment is being made from CJA funds, counsel should submit the CJA 20 or CJA 30 Voucher through the CJA eVoucher system. In cases not covered by the Criminal Justice Act, counsel should submit the Assigned Counsel Voucher to the clerk's office for payment from the Attorney Admission Fund. An Assigned Counsel Voucher will be sent to counsel shortly after entry of judgment. Forms and instructions are also available on the court's web site, www.ca4.uscourts.gov, or from the clerk's office.

BILL OF COSTS: A party to whom costs are allowable, who desires taxation of costs, shall file a Bill of Costs within 14 calendar days of entry of judgment. (FRAP 39, Loc. R. 39(b)).

PETITION FOR REHEARING AND PETITION FOR REHEARING EN

BANC: A petition for rehearing must be filed within 14 calendar days after entry of judgment, except that in civil cases in which the United States or its officer or agency is a party, the petition must be filed within 45 days after entry of judgment. A petition for rehearing en banc must be filed within the same time limits and in the same document as the petition for rehearing and must be clearly identified in the title. The only grounds for an extension of time to file a petition for rehearing are the death or serious illness of counsel or a family member (or of a party or family member in pro se cases) or an extraordinary circumstance wholly beyond the control of counsel or a party proceeding without counsel.

Each case number to which the petition applies must be listed on the petition and included in the docket entry to identify the cases to which the petition applies. A timely filed petition for rehearing or petition for rehearing en banc stays the mandate and tolls the running of time for filing a petition for writ of certiorari. In consolidated criminal appeals, the filing of a petition for rehearing does not stay the mandate as to co-defendants not joining in the petition for rehearing. In consolidated civil appeals arising from the same civil action, the court's mandate will issue at the same time in all appeals.

A petition for rehearing must contain an introduction stating that, in counsel's judgment, one or more of the following situations exist: (1) a material factual or legal matter was overlooked; (2) a change in the law occurred after submission of the case and was overlooked; (3) the opinion conflicts with a decision of the U.S. Supreme Court, this court, or another court of appeals, and the conflict was not addressed; or (4) the case involves one or more questions of exceptional importance. A petition for rehearing, with or without a petition for rehearing en banc, may not exceed 3900 words if prepared by computer and may not exceed 15 pages if handwritten or prepared on a typewriter. Copies are not required unless requested by the court. (FRAP 35 & 40, Loc. R. 40(c)).

MANDATE: In original proceedings before this court, there is no mandate. Unless the court shortens or extends the time, in all other cases, the mandate issues 7 days after the expiration of the time for filing a petition for rehearing. A timely petition for rehearing, petition for rehearing en banc, or motion to stay the mandate will stay issuance of the mandate. If the petition or motion is denied, the mandate will issue 7 days later. A motion to stay the mandate will ordinarily be denied, unless the motion presents a substantial question or otherwise sets forth good or probable cause for a stay. (FRAP 41, Loc. R. 41).

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 19-1740

In re: ELIZABETH H. COOMES,

Debtor.

ELIZABETH H. COOMES, a/k/a Elizabeth Haring Coomes, d/b/a Old Town
Insurance & Financial,

Debtor - Appellant,

v.

THOMAS P. GORMAN, Chapter 13 Trustee,

Trustee - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at
Alexandria. T.S. Ellis, III, Senior District Judge. (1:18-cv-01322-TSE-MSN)

Submitted: October 28, 2019

Decided: December 6, 2019

Before AGEE, DIAZ, and HARRIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Elizabeth Haring Coomes, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Elizabeth Haring Coomes seeks to appeal the district court's order denying her second motion to reconsider a prior order. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

Parties are accorded 30 days after the entry of the district court's final judgment or order to note an appeal, Fed. R. App. P. 4(a)(1)(A), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5), or reopens the appeal period under Fed. R. App. P. 4(a)(6). "[T]he timely filing of a notice of appeal in a civil case is a jurisdictional requirement." *Bowles v. Russell*, 551 U.S. 205, 214 (2007).

The district court's order was entered on the docket on May 28, 2019. The notice of appeal was filed on July 3, 2019. Because Coomes failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. In light of this disposition, we deny as moot the Appellee's motion to dismiss or consolidate the appeal. We deny all of Coomes' pending motions. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED

FILED: December 6, 2019

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUITNo. 19-1740, Elizabeth Coomes v. Thomas Gorman
1:18-cv-01322-TSE-MSN

NOTICE OF JUDGMENT

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Each case number to which the petition applies must be listed on the petition and included in the docket entry to identify the cases to which the petition applies. A timely filed petition for rehearing or petition for rehearing en banc stays the mandate and tolls the running of time for filing a petition for writ of certiorari. In consolidated criminal appeals, the filing of a petition for rehearing does not stay the mandate as to co-defendants not joining in the petition for rehearing. In consolidated civil appeals arising from the same civil action, the court's mandate will issue at the same time in all appeals.

A petition for rehearing must contain an introduction stating that, in counsel's judgment, one or more of the following situations exist: (1) a material factual or legal matter was overlooked; (2) a change in the law occurred after submission of the case and was overlooked; (3) the opinion conflicts with a decision of the U.S. Supreme Court, this court, or another court of appeals, and the conflict was not addressed; or (4) the case involves one or more questions of exceptional importance. A petition for rehearing, with or without a petition for rehearing en banc, may not exceed 3900 words if prepared by computer and may not exceed 15 pages if handwritten or prepared on a typewriter. Copies are not required unless requested by the court. (FRAP 35 & 40, Loc. R. 40(c)).

MANDATE: In original proceedings before this court, there is no mandate. Unless the court shortens or extends the time, in all other cases, the mandate issues 7 days after the expiration of the time for filing a petition for rehearing. A timely petition for rehearing, petition for rehearing en banc, or motion to stay the mandate will stay issuance of the mandate. If the petition or motion is denied, the mandate will issue 7 days later. A motion to stay the mandate will ordinarily be denied, unless the motion presents a substantial question or otherwise sets forth good or probable cause for a stay. (FRAP 41, Loc. R. 41).

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 19-1740

In re: ELIZABETH H. COOMES,

Debtor.

ELIZABETH H. COOMES, a/k/a Elizabeth Haring Coomes, d/b/a Old Town
Insurance & Financial,

Debtor - Appellant,

v.

THOMAS P. GORMAN, Chapter 13 Trustee,

Trustee - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at
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Submitted: October 28, 2019

Decided: December 6, 2019

Before AGEE, DIAZ, and HARRIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Elizabeth Haring Coomes, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Elizabeth Haring Coomes seeks to appeal the district court's order denying her second motion to reconsider a prior order. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

Parties are accorded 30 days after the entry of the district court's final judgment or order to note an appeal, Fed. R. App. P. 4(a)(1)(A), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5), or reopens the appeal period under Fed. R. App. P. 4(a)(6). "[T]he timely filing of a notice of appeal in a civil case is a jurisdictional requirement." *Bowles v. Russell*, 551 U.S. 205, 214 (2007).

The district court's order was entered on the docket on May 28, 2019. The notice of appeal was filed on July 3, 2019. Because Coomes failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. In light of this disposition, we deny as moot the Appellee's motion to dismiss or consolidate the appeal. We deny all of Coomes' pending motions. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED

FILED: December 20, 2019

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-1740
(1:18-cv-01322-TSE-MSN)

In re: ELIZABETH H. COOMES

Debtor

ELIZABETH H. COOMES, a/k/a Elizabeth Haring Coomes, d/b/a Old Town
Insurance & Financial

Debtor - Appellant

v.

THOMAS P. GORMAN, Chapter 13 Trustee

Trustee - Appellee

O R D E R

Upon consideration of submissions relative to appellant's motion to suspend appeal, appoint counsel, extend time for filing a petition for rehearing, and set a briefing schedule, the court denies the motion.

For the Court--By Direction

/s/ Patricia S. Connor, Clerk

FILED: February 5, 2020

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-1740
(1:18-cv-01322-TSE-MSN)

In re: ELIZABETH H. COOMES

Debtor

ELIZABETH H. COOMES, a/k/a Elizabeth Haring Coomes, d/b/a Old Town Insurance &
Financial

Debtor - Appellant

v.

THOMAS P. GORMAN, Chapter 13 Trustee

Trustee - Appellee

M A N D A T E

The judgment of this court, entered December 6, 2019, takes effect today.

This constitutes the formal mandate of this court issued pursuant to Rule 41(a) of the
Federal Rules of Appellate Procedure.

/s/Patricia S. Connor, Clerk

U.S. COURT OF APPEAL FOR THE FOURTH CIRCUIT BILL OF COSTS FORM
(Civil Cases)

Directions: Under FRAP 39(a), the costs of appeal in a civil action are generally taxed against appellant if a judgment is affirmed or the appeal is dismissed. Costs are generally taxed against appellee if a judgment is reversed. If a judgment is affirmed in part, reversed in part, modified, or vacated, costs are taxed as the court orders. A party who wants costs taxed must, within 14 days after entry of judgment, file an itemized and verified bill of costs, as follows:

- Itemize any fee paid for docketing the appeal. The fee for docketing a case in the court of appeals is \$500 (effective 12/1/2013). The \$5 fee for filing a notice of appeal is recoverable as a cost in the district court.
- Itemize the costs (not to exceed \$.15 per page) for copying the necessary number of formal briefs and appendices. (Effective 10/1/2015, the court requires 1 copy when filed; 3 more copies when tentatively calendared; 0 copies for service unless brief/appendix is sealed.). The court bases the cost award on the page count of the electronic brief/appendix. Costs for briefs filed under an informal briefing order are not recoverable.
- Cite the statutory authority for an award of costs if costs are sought for or against the United States. See 28 U.S.C. § 2412 (limiting costs to civil actions); 28 U.S.C. § 1915(f)(1) (prohibiting award of costs against the United States in cases proceeding without prepayment of fees).

Any objections to the bill of costs must be filed within 14 days of service of the bill of costs. Costs are paid directly to the prevailing party or counsel, not to the clerk's office.

Case Number & Caption: _____

Prevailing Party Requesting Taxation of Costs: _____

Appellate Docketing Fee (prevailing appellants):			Amount Requested: _____			Amount Allowed: _____	
Document	No. of Pages		No. of Copies		Page Cost (≤\$.15)	Total Cost	
	Requested	Allowed (court use only)	Requested	Allowed (court use only)		Requested	Allowed (court use only)
TOTAL BILL OF COSTS:						\$0.00	\$0.00

1. If copying was done commercially, I have attached itemized bills. If copying was done in-house, I certify that my standard billing amount is not less than \$.15 per copy or, if less, I have reduced the amount charged to the lesser rate.
2. If costs are sought for or against the United States, I further certify that 28 U.S.C. § 2412 permits an award of costs.
3. I declare under penalty of perjury that these costs are true and correct and were necessarily incurred in this action.

Signature: _____ **Date:** _____

Certificate of Service

I certify that on this date I served this document as follows:

Signature: _____ **Date:** _____

U.S. COURT OF APPEAL FOR THE FOURTH CIRCUIT BILL OF COSTS FORM
(Civil Cases)

Directions: Under FRAP 39(a), the costs of appeal in a civil action are generally taxed against appellant if a judgment is affirmed or the appeal is dismissed. Costs are generally taxed against appellee if a judgment is reversed. If a judgment is affirmed in part, reversed in part, modified, or vacated, costs are taxed as the court orders. A party who wants costs taxed must, within 14 days after entry of judgment, file an itemized and verified bill of costs, as follows:

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- Cite the statutory authority for an award of costs if costs are sought for or against the United States. See 28 U.S.C. § 2412 (limiting costs to civil actions); 28 U.S.C. § 1915(f)(1) (prohibiting award of costs against the United States in cases proceeding without prepayment of fees).

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TOTAL BILL OF COSTS:						\$0.00	\$0.00

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Signature: _____ **Date:** _____

Certificate of Service

I certify that on this date I served this document as follows:

Signature: _____ **Date:** _____

FILED: February 5, 2020

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-1740
(1:18-cv-01322-TSE-MSN)

In re: ELIZABETH H. COOMES

Debtor

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Debtor - Appellant

v.

THOMAS P. GORMAN, Chapter 13 Trustee

Trustee - Appellee

M A N D A T E

The judgment of this court, entered December 6, 2019, takes effect today.

This constitutes the formal mandate of this court issued pursuant to Rule 41(a) of the
Federal Rules of Appellate Procedure.

/s/Patricia S. Connor, Clerk

In the United States Court of Appeals for the 4th Circuit

Elizabeth H. Coomes,

v.

Thomas P. Gorman

)
)
)

Case No. 19-1740

OBJECTIONS AND EXCEPTIONS TO OPINION AND JUDGMENT

COMES NOW the appellant Elizabeth Haring Coomes in proper person to note her objections and exceptions to this Court's opinion and judgment in this case. In support thereof, she states:

1. Ms. Coomes objects the lower Court and this Court deprived her of her right to counsel to assist her at all stages of this appeal and the District Court appeal. Ms. Coomes was prejudiced by the lack of counsel.
2. Ms. Coomes objects to and takes exception to the Court's finding the notice of appeal was untimely filed. Ms. Coomes timely filed her appeal. The notice was timely for numerous reasons.
3. Ms. Coomes objects to and takes exception to the Court's finding the Court lacks jurisdiction pursuant to Federal Rules of Appellate Procedure 4(a)(1)(A), 4(a)(5), and 4(a)(6). FRAP 4(a)(1)(A), 4(a)(5), and 4(a)(6) are neither applicable nor mandatory in this case. Federal Rules of Appellate Procedure 4(a)(1)(A), 4(a)(5), and 4(a)(6) purport to place time limits on an appeal of a bankruptcy case, bankruptcy matters or other proceedings under Title 11 from district courts and bankruptcy appellate panels; assuming arguendo these Rules are valid and enforceable, they are non-jurisdictional "claim-processing" Rules, pursuant to US Supreme Court authority holding a Rule is only jurisdictional if the Rule is clearly statutory. Failure to comply with a jurisdictional time prescription "deprives a court of adjudicatory authority over the case, necessitating

dismissal.” *Hamer v. Neighborhood Hous. Servs. of Chicago*, — U.S. —, 138 S.Ct. 13, 17, 199 L.Ed.2d 249 (2017)(citations omitted). Because Congress alone “may determine a lower federal court’s subject-matter jurisdiction,” *id.*, a “time prescription governing the transfer of adjudicatory authority from one Article III court to another” is jurisdictional only if it “appears in a statute,” *id.* at 20 (quotations and citations omitted). On the other hand, a “time limit not prescribed by Congress ranks as a mandatory claim-processing rule.” *Id.* at 17. Federal Rule of Appellate Procedure 6(b) sets forth procedures to be followed for appeals from the district court or a bankruptcy appellate panel exercising appellate jurisdiction in a bankruptcy case. F.R.A.P. Rule 6(b)(1) incorporates Rule 4(a)(1), which is codified at 28 U.S.C.A. § 2107(a) and governs the timing of appeals in a civil case. Accordingly, a party appealing from a final judgment, order, or decree of a district court or bankruptcy appellate panel to a court of appeals has 30 days to appeal from entry of the order or judgment. FRAP 4 and FRAP 6 are not statutory. The plain language of the underlying statute, *viz.* 28 USC 2107(d) expressly states that FRAP 4, including 4(a)(1)(A), 4(a)(5), and 4(a)(6), “shall not apply to bankruptcy matters or other proceedings under Title 11.” Furthermore, 28 USC 158(d)(1) which confers jurisdiction to courts of appeals over final decisions, judgments, and Orders of District Courts, does not have a timeliness requirement. The words which Congress has used are not ambiguous. Heflin v. United States, 358 U.S. 415, 420, 79 S. Ct. 451, 454, 3 L. Ed. 2d 407 (1959). Ms. Coomes objects to this Court violating the separation of powers by requiring something more than the plain language of the statutes require (legislating from the bench), when only Congress may legislate.

4. Ms. Coomes objects to and takes exception to the Court's finding the Court lacks jurisdiction pursuant to Federal Rules of Appellate Procedure 4(a)(1)(A), 4(a)(5), and 4(a)(6). Assuming *arguendo* these Rules are applicable to a bankruptcy case, bankruptcy matters or other proceedings under Title 11, these Rules are invalid to the extent they abridge, and modify a substantive right, contravene acts of Congress, and the constitution. The Rules Enabling Act, 28 U.S.C. § 2072, authorizes the Court to, "prescribe general rules of practice and procedure and rules of evidence for cases in the United States district courts (including proceedings before Magistrates thereof) and courts of appeals." The Court has no authority to enact rules that "abridge, enlarge or modify any substantive right." *Ibid*. The Supreme Court promulgated the Federal Rules of Appellate Procedure and Local Rules of procedure to, "govern the procedure in the United States district courts in all *suits* of a civil nature." Fed.Rule App.Proc. 1. The Supreme Court interprets the Rules according to its plain meaning, see *Pavelic & LeFlore v. Marvel Entertainment Group*, 493 U.S. 120, 123, 110 S.Ct. 456, 458, 107 L.Ed.2d 438 (1989), in light of the scope of the congressional authorization. *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 391, 110 S. Ct. 2447, 2453, 110 L. Ed. 2d 359 (1990).
5. Ms. Coomes objects to and takes exception to the Court's finding the Court lacks jurisdiction pursuant to Federal Rules of Appellate Procedure 4(a)(1)(A), 4(a)(5), and 4(a)(6) on the basis the timely filing of a notice of appeal is a jurisdictional requirement in a civil case; this case is not a civil case – it is a bankruptcy case, bankruptcy matter or other proceedings under Title 11, which is expressly excluded by statute in 28 USC 2017(d). Bankruptcy cases, matters, and proceedings under Title 11 are not civil cases.

This is evident from the plain language of FRAP 4 and FRAP 6 which distinguish civil cases from Bankruptcy cases.

6. Ms. Coomes objects to and takes exception to the Court's finding the Court lacks jurisdiction pursuant to *Bowles v. Russell*, a habeas case which is inapposite because it is not a bankruptcy case and *Bowles* was governed by a Rule that had a statutory basis. *Bowles v. Russell* and *Hamer* stand for the aforementioned principles articulated as follows, "In cases not involving the time bound transfer of adjudicatory authority from one Article III court to another," the Supreme Court has applied the "clear-statement rule." *Hamer*, 138 S.Ct. at 20 n.9. The clear-statement rule provides that " '[a] rule is jurisdictional if the Legislature clearly states that a threshold limitation on a statute's scope shall count as jurisdictional.' " *Id.* (quoting *Gonzalez v. Thaler*, 565 U.S. 134, 141, 132 S.Ct. 641, 181 L.Ed.2d 619 (2012)(citations omitted)). FRAP 4 and FRAP 6 are not jurisdictional because Congress did not clearly state a threshold limitation on the governing statutes' scope; Congress expressly stated FRAP 4 does not apply to bankruptcy matters or other proceedings under Title 11 and Congress placed no timeliness requirement in 28 USC 158(d)(1). Therefore, the governing statutes 28 USC 2107(d) and 28 USC 158(d)(1) are not jurisdictional, and this Court erred in dismissing the case on jurisdictional grounds.
7. Ms. Coomes objects to and takes exception to the Court's decision and judgment on the basis assuming *arguendo* that 4(a)(1)(A), 4(a)(5), and 4(a)(6) are applicable but they are non-jurisdictional claim processing Rules, they are not mandatory. Ms. Coomes objects to the dismissal since the appellee did not object to the timeliness of the notice of appeal, the appellee waived or forfeited any objection to the timeliness of the notice of appeal,

the appellee is not prejudiced by the timing of the appeal, and this Court must accept an allegedly untimely filed appeal in the absence of a properly raised objection from the opposing party. Assuming *arguendo* FRAP 4 and FRAP 6 are valid, the appeal deadline is not jurisdictional, it is instead a non-jurisdictional claim-processing rule. See *Hamer*, 138 S.Ct. at 17-18. As such, the Court must still enforce the time limit, if it was properly invoked. ***See id.* (“if properly invoked, mandatory claim-processing rules must be enforced”)**. Indeed, “claim-processing rules thus assure relief to a party properly raising them, but do not compel the same result if the party forfeits them.” *Eberhart v. United States*, 546 U.S. 12, 19, 126 S.Ct. 403, 163 L.Ed.2d 14 (2005) (*per curiam*). In re Budd, 589 B.R. 1, 4 (D.D.C. 2018).

8. Ms. Coomes objects to and takes exception to the Court’s decision and judgment on the basis it is inconsistent with US Supreme Court precedent and this Court’s binding precedent, and Ms. Coomes has been treated disparately. This Court has held, “A rule is jurisdictional if the Legislature clearly states that a threshold limitation on a statute’s scope shall count as jurisdictional, but if Congress does not rank a statutory limitation on coverage as jurisdictional, courts should treat the restriction as non-jurisdictional.” United States v. Wheeler, 886 F.3d 415 (4th Cir. 2018), cert. denied, 139 S. Ct. 1318, 203 L. Ed. 2d 600 (2019).
9. Ms. Coomes objects to and takes exception to the Court’s decision and judgment on the basis it conflicts with the 2nd Circuit’s decision on this question, which is persuasive authority,

A court of appeals is not deprived of jurisdiction over untimely, unobjected-to appeals from bankruptcy appellate panels or district courts exercising appellate

jurisdiction. 28 U.S.C.A. § 2107(a); F.R.A.P. Rules 4(a)(1)(A), 6(b)(1), 28 U.S.C.A. *In re Indu Craft, Inc.*, 749 F.3d 107 (2d Cir. 2014).

10. Ms. Coomes objects to and takes exception to the Court's decision and judgment on the basis Ms. Coomes has been treated disparately. This case raises questions of first impression and unresolved questions of law. For example, this case presents the question of whether Federal Rules of Appellate Procedure 4(a)(1)(A), 4(a)(5), and 4(a)(6) placing time limits on an appeal of a bankruptcy case, bankruptcy matters or other proceedings under Title 11 from district courts and bankruptcy appellate panels is a jurisdictional Rule or a non-jurisdictional "claim-processing" Rule, and if it is a non-jurisdictional "claim-processing" Rule, whether it is mandatory. Furthermore, it raises the question of whether the Court must accept an allegedly untimely filed appeal in the absence of an objection from the opposing party. This case raises the important question of whether the unique circumstances doctrine is applicable to non-jurisdictional claim-processing rules.

See *Carlisle*, 517 U.S. at 428, 116 S.Ct. 1460; *Lambert*, 139 S. Ct. at 717 n.7. There is no authority on these questions in the 4th Circuit. As this Court recently held, the Supreme Court left open the latter question about the unique circumstances doctrine. See *United States v. Marsh*, No. 18-4609, 2019 WL 6693742, at *6 (4th Cir. Dec. 9, 2019). This Court held FRAP 4(a)(1)(A), 4(a)(5), and 4(a)(6) are applicable to Ms. Coomes' appeal of a bankruptcy case, bankruptcy matters or other proceedings under Title 11, and that they are jurisdictional. Ordinarily this Court orders briefing on the issues prior to issuing a decision, but did not in this case. Ms. Coomes objects this Court deprived her of

meaningful judicial review by *sua sponte* erroneously dismissing the appeal without any briefing on the issues and never reaching the merits of the appeal.

11. Ms. Coomes objects to and takes exception to the Court's decision and judgment on the basis assuming *arguendo* that 4(a)(1)(A), 4(a)(5), and 4(a)(6) are applicable but they are non-jurisdictional claim processing Rules which are not mandatory, this Court lacked authority to dismiss the case *sua sponte*.
12. Ms. Coomes objects to and takes exception to the Court's decision and judgment on the basis the Court's findings and opinions are conclusory, factually erroneous and legally erroneous, unsupported by any authority, contrary to binding authority and the law of the circuit, and arbitrary and capricious.
13. Ms. Coomes objects to and takes exception to the Court's decision and judgment on the basis the unique circumstances doctrine is applicable to non-jurisdictional claim-processing rules. See *Carlisle*, 517 U.S. at 428, 116 S.Ct. 1460; *Lambert*, 139 S. Ct. at 717 n.7.
14. Ms. Coomes objects to and takes exception to the Court's decision and judgment on the basis even if the appeal was untimely filed, equitable tolling ought to apply in this case. Without waiver of this objection, assuming *arguendo* it was untimely filed, the fact is there was good cause, excusable neglect, and extraordinary circumstances - Ms. Coomes could not even possibly obtain an extension of time to file her appeal or reopen the time to file her appeal because only the District Court may extend time to file an appeal or reopen the time to file an appeal and the District Court issued unprecedented Orders barring Ms. Coomes from filing in her existing case.

15. Ms. Coomes objects to and takes exception to the Court's decision and judgment on the basis the Court found it was untimely filed. Ms. Coomes timely filed the appeal because the governing laws do not require a certain time within which it must be filed, and it was timely pursuant to law. Moreover, Ms. Coomes filed her notice of appeal on June 27, 2019 at a court of appeals, namely the US Supreme Court, the highest court of appeals, and June 27, 2019 is the filing date. Ms. Coomes objects the District Court and this Court incorrectly docketed the filing date as July 3, 2019.
16. Ms. Coomes objects to and takes exception to the Court's decision and judgment on the basis the governing statutes 28 USC 2107(d) and 28 USC 158(d)(1) supersede the Rules.
17. Ms. Coomes objects to and takes exception to the Court's decision and judgment on the basis that to the extent the Orders contain criminal contempt findings and criminal contempt sanctions, and the deadline to file a notice of appeal in a criminal matter is a non-jurisdictional claim processing rule, no party objected to the timing of the appeal, forfeiting or waiving any objection, the Rule is not mandatory.
18. Ms. Coomes objects to and takes exception to the Court's decision and judgment on the basis that to the extent the Orders contain criminal contempt findings and criminal contempt sanctions and the May 28, 2019 Order has not yet been entered on the criminal docket, entered on the Bankruptcy Court docket, or served on Ms. Coomes, the Order is not final, the appeal has not yet ripened, the notice of appeal is premature, and this Court lacked jurisdiction to decide the case and dismiss the appeal.
19. Ms. Coomes objects to and takes exception to the Court's decision and judgment on the basis that even if it was untimely filed, the facts, extraordinary circumstances, lack of

counsel, and no other opportunity for judicial review exist warrant equitable tolling and unique circumstances exception.

20. Ms. Coomes objects to and takes exception to the Court's decision and judgment on the basis that it decided to dismiss her appeal because she did not and could not obtain an extension of time or leave to reopen. Ms. Coomes asked for this relief, but this Court could not grant it.

21. Ms. Coomes objects to and takes exception to the Court's decision and judgment on the basis that this Court deferred then denied her pending motions. Had this Court granted the motion to suspend the Rules, if they applied but were not jurisdictional, Ms. Coomes would have had an opportunity to have meaningful judicial review if the rules were suspend; instead, the Court has not been equitable and there is a manifest injustice.

22. Ms. Coomes refers to and renews all her previous arguments and objections in this case as if fully set forth herein.

23. Ms. Coomes objects to and takes exception to the Court's decision and judgment on the basis that the Court has violated the ADA, which is mandatory, violated Ms. Coomes' civil rights, and Due Process rights.

24. Ms. Coomes objects the Court denied her motion filed this same day.

RESPECTFULLY SUBMITTED,

/s/Elizabeth H. Coomes

ELIZABETH H. COOMES

FILED: December 23, 2019

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-1740
(1:18-cv-01322-TSE-MSN)

In re: ELIZABETH H. COOMES

Debtor

ELIZABETH H. COOMES, a/k/a Elizabeth Haring Coomes, d/b/a Old Town
Insurance & Financial

Debtor - Appellant

v.

THOMAS P. GORMAN, Chapter 13 Trustee

Trustee - Appellee

STAY OF MANDATE UNDER
FED. R. APP. P. 41(d)(1)

Under Fed. R. App. P. 41(d)(1), the timely filing of a petition for rehearing or rehearing en banc or the timely filing of a motion to stay the mandate stays the mandate until the court has ruled on the petition for rehearing or rehearing en banc

or motion to stay. In accordance with Rule 41(d)(1), the mandate is stayed pending further order of this court.

/s/Patricia S. Connor, Clerk

FILED: February 5, 2020

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-1740
(1:18-cv-01322-TSE-MSN)

In re: ELIZABETH H. COOMES

Debtor

ELIZABETH H. COOMES, a/k/a Elizabeth Haring Coomes, d/b/a Old Town Insurance &
Financial

Debtor - Appellant

v.

THOMAS P. GORMAN, Chapter 13 Trustee

Trustee - Appellee

M A N D A T E

The judgment of this court, entered December 6, 2019, takes effect today.

This constitutes the formal mandate of this court issued pursuant to Rule 41(a) of the
Federal Rules of Appellate Procedure.

/s/Patricia S. Connor, Clerk