# APPENDIX

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**APPENDIX A-United States Court of Appeals for the Second Circuit March 21, 2024 En Banc Petition Denied**

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UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

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At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 21st day of March, two thousand twenty-four.

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Bensam Swakeen,
Plaintiff-Appellant,

v.

Mary S. Pandian, Samuel J. Pandian,
Defendants-Appellees.

ORDER
Docket No. 23-843

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Appellant, Bensam Swakeen, has filed a petition for rehearing en banc. The active members of the Court have considered the request for rehearing en banc.

IT IS HEREBY ORDERED that the petition is denied.

FOR THE COURT
Catherine O'Hagan Wolfe, Clerk

**APPENDIX B-United States Court of Appeals for the Second CircuitFeb 22, 2024 Summary Order Reaffirmed**

23-843

Swakeen v. Pandian

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT, CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THIS NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 22nd day of February, two thousand twenty-four.

PRESENT:
SUSAN L. CARNEY,
RICHARD J. SULLIVAN,
ENUICE C. LEE,
*Circuit Judges*

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BENSAM SWAKEEN,
*Plaintiff-Appellant,*
V. No. 23-843
MARY S.PANDIAN, SAMUEL J.PANDIAN,
*Defendants-Appellees,*
**For Plaintiff-Appellant:**
BENSAM SWAKEEN, *pro se*, Woodside, NY
**For Defendants-Appellees:** LAWRENCE S. LEFKOWITZ, Law Firm of Lawrence S. Lefkowitz LLC, Freeport, NY

Appeal from a judgment of the United States District Court for the Eastern District of New York (Hector Gonzalez, *Judge).*

**UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the May 12, 2023 judgment of the district court is AFFIRMED.**

Bensam Swakeen, proceeding *pro se,* appeals from the district court's judgment affirming the bankruptcy court's grant of summary judgment in favor of May S.Pandian and Samuel J.Pandian on Swakeen's adversary proceeding claims against them. The Pandians filed for Chapter 7 protection in November 2020, listing Swakeen as an unsecured creditor in the amount of $110,000 (a debt that the Panndians disputed). The Chapter 7 Trustee reported that there was no property available for distribution, and Swakeen went unpaid. A few month;s after the Trustee's report, Swakeen initiated an adversary proceeding against the Pandians and their two children in the bankruptcy court, arguing that the $110,000 loan should not be discharged under Chapter 7 and seeking payment of the $96,250 that he claimed to be outstanding on the loan. Swakeen alleged that the Pandians had the means to pay him back, asserting that they owned property in several locations in India and New York and alleging that the Pandia family was now earning "good income." Dist.Ct. Doc. No.2 at 13

The Pandians moved to dismiss. At a hearing on that motion, the bankruptcy court construed Swakeen's adversary complaint as raising claims under Bankruptcy Code § 727(a)(2), which provides that discharge may be denied if the debtor "concealed" property with the "intent to hinder, delay, or defraud a creditor." 11 U.S.C. § 727 (a)(2). The bankruptcy court informed the parties that it would convert the motion to dismiss into one for summary judgment and directed Swakeen to support with evidence the claims that the Pandians had concealed assets.

Although the bankruptcy court granted several extensions, Swakeen failed to submit any supporting evidence. The bankruptcy court thus granted summary judgment to the Pandians in July 2022. Swakeen then appealed to the district court, which affirmed. This appeal followed. We assume the parties' familiarity with the remaining underlying facts, the procedural history, and the issues on appeal.

In a bankruptcy appeal, "we independently and directly review the bankruptcy court's decision." *In re Sears Holding Corp.*, 51 F.4th 53, 60 (2d Cir. 2022). "Under Federal Rule of Civil Procedure 56, applicable in adversary proceedings pursuant to Federal Rule of Bankruptcy Procedure 7056, a court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." *In re Kran,* 760 F.3d 206,209 (2d Cir. 2014) (internal quotation marks omitted). Wethen review that grant of summary judgment *de novo. See Springfield Hosp.,Inc. V. Guuzman,* 28 F.4th 403, 415 (2d Cir. 2022). As to *pro se* parties like Swakeen, "[w]e liberally construe pleadings and briefs submitted by *pro se* litigants, reading such submissions to raise the strongest arguments they suggest." *Bertin v. United States,* 478 F.3d 489, 491 (2d Cir. 2007) (citations and internal quotation marks omitted).

On appeal, Swakeen asserts that the Pandians "lied" in the bankruptcy proceeding and have the means to "pay back"

his loan. Swakeen Br. at 3-4. We construe this claim liberally, as did the district court, to invoke sections 727(a)(2) and 727(a)(4)(A) of Chapter 7, which disallow discharge of debts under certain circumstances. Thus, section 727(a)(2) provides that discharge will be disallowed if the debtors, "with intent to hinder, delay, or defraud a creditor...ha[ve] transferred, removed, destroyed, mutilated, or concealed" either "[their] property...within one year before the date of the filing of the petition" or "the property of the estate, after the [filing] date." 11 U.S.C. § 727(a)(2)(A)-(B). Section 727(a)(4)(A), meanwhile, provides that discharge will be disallowed if the debtors "knowingly and fraudulently, in or in connection with [their Chapter 7] case...made a false oath or account." Id § 727(a)(4)(A) We have emphasized, however, that section 727 "imposes an extreme penalty for wrongdoing" and thus "must be construed strictly against those who object to the debtor's discharge." *In re Chalasani*, 92 F.3d 1300, 1310 (2d Cir. 1996).

We agree with the bankruptcy court - and the district court- that Swaeen failed to establish a genuine issue of material fact with respect to a claim under either section. Despite ample opportunity, he provided no evidence to support his allegation that the Padians had concealed or transferred assets in violation of section 727(a)(2). Nor did he provide evidence in support of his claim that the Pandian surreptitiously possessed real property in India or otherwise lied in connection with their bankruptcy. Moreover, the thrust of Swakeen's argument is that the Pandians now have the means to pay him back. But as both the bankruptcy and district courts explained, the relevant question is not whether the Pandians currently have money but whether they had money or property that they failed to disclose in their bankruptcy schedules.

Swakeen also argues that reason he failed to provide such evidence was that the Chapter 7 Trustee and the Panidans failed to turn over the financial records he requested

But the bankruptcy court gave Swakeen ample time to conduct discovery, including a generous extension after the hearing. We will not grant Swakeen the "extreme relief" he seeks when he offers no evidence, even with the benefit of the additional time he was allowed to obtain it. *Id.* at 1313.

We have considered Swakeen;s remaining arguments and find them to be without merit. Accordingly, we AFFIRM the judgment of the district court.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of the Court
United States Court of Appeals Second Circuit

**APPENDIX C-United States District Court Eastern District of New York May 12, 2023 Decision**

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BENSAM SWAKEEN,
Appellant,

JUDGMENT
22-CV-4710(HG)

V.

MARY S. PANDIAN and SAMUEL J. PANDIAN
Appellees.

A Memorandum and Order of Honorable Hector Gonzalez, United States District Judge, Having been filed on May 11, 2023, affirming the order of the Bankruptcy Court; it is ORDERED and ADJUDGED that the order of the Bankruptcy Court is affirmed.

Dated: Brooklyn, NY
May 12, 2023

Brenna B. Mahoney
Clerk of Court
*By:/s/Jalitza Poveda*
Deputy Clerk

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BENSAM SWAKEEN,
Appellant,
v.
MARY S. PANDIAN and SAMUEL J. PANDIAN,
Appellees.

**MEMORANDUM & ORDER**
22-CV-4710 (HG)

HECTOR GONZALEZ, United States District Judge:

Plaintiff-Appellant Bensam Swakeen ("Appellant"), proceeding *pro se*, appeals an order entered by the United States Bankruptcy Court for the Eastern District of New York ("Bankruptcy Court") dismissing Plaintiff's complaint and granting Debtor Defendants-Appellees Mary S. Pandian and Samuel J. Pnadian's (together, "Appellees") motion for summary judgment in a dispute concerning borrowed money. For the reasons set forth below, the Court affirms the order of the Bankruptcy Court.

## BACKGROUND

Appellant and Appellee were close family friends and members of the same community, Beginning in September 2009, Appellant made a series of loans for the benefit of Appellees, their children, and their business. *See* ECF No.2 at 8-34 (Bankruptcy Record or "B.R.", Complaint). On November 9, 2020, Appellees filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code. Appellees "listed a disputed personal loan debt with the Appellant in the sum of $110,000. On Schedule F of their [petition, specifically stating that they denied the amount allegedly owed." ECF No.11 at 1; *see also* ECF No.2-2 at 6 (B.R., Schedule E/F).

On February 3, 2021, Appellant filed an adversary proceeding in Bankruptcy Court against Appellees objecting to the discharge of Appellees' debt in their

Chapter 7 proceeding and for the recovery of the $110,000 allegedly owed to him. ECF No.2 at 8-34 (B.R., Complaint). In his complaint, Appellant alleged that Appellees borrowed money from him but refused to pay him back dispute having the funds to do so. *Id.* Appellant claimed that Appellees held money and property interests that were not properly disclosed in their Chapter 7 proceeding. *Id.* As a result, Appellant filed the adversary proceeding and sought a judgment denying the discharge of Appellees' debt and an award of money damages. *Id.*

On October 22, 2021, Appellees filed a motion to dismiss Appellant's complaint. ECF No.2-2 at 1-10 (B.R., Motion to Dismiss). After conducting a hearing with the parties on December 9, 2021 the Bankruptcy Court converted Appellee' motion to dismiss to a motion for summary judgment and permitted Appellant to

supplement his opposition and file documentary evidence supporting his claims. ECF No.2-3 at 8-9 (B.R., Order), 12-39 (B.R., Hearing Transcript). On July 19, 2022, the Bankruptcy Court entered an order granting Apellees' motion for summary judgment ("Dismissal Order") . ECF No. 2-3 at 64-44 (B.R.). The Bankruptcy Court "determined that [Appellant] failed to adduce any evidence tending to show that [Appelles] failed to disclose or conceal assets," and dismissed Appellant's adversary proceeding. *Id.*

On August 10, 2022, Appellant filed the instant action appalling the Dismissal Order. ECF No.1. On October 25, 2022, Appellant filed his opening brief. ECF No.5. On December 21, 2022, Appellees filed their opposition, and on December 28, 2022, Appellant filed his reply. ECF Nos. 11,18. Appellant subsequently filed an

addendum and additional Bankruptcy Court records. ECF Nos. 20,21.

## LEGAL STANDARD

District courts have appellate jurisdiction over "final judgments, orders, and decrees" entered in Bankruptcy Court. 28 U.S.C. § 158 (a). "A district court need not agree with every conclusion reached by the Bankruptcy Court and may affirm the decision on any ground supported in the record." In re Zubair, No. 20-CV-8829, 2021 WL. 4974811, at *4 (S.D.N.Y. Oct. 26, 2021).[2]

On appeal, a district court reviews a bankruptcy court's findings of fact for clear error and its legal conclusions *de novo*. *See In re Pinnock*, 833 F. Appendix 498, 501 (2d Cir.2020) (engaging in *de novo* review of the district court's review of a

Bankruptcy court's decision and noting that the Second Circuit "appl[ies] the same standard of review employed by the district court to the decision of the bankruptcy court"), *In re Windstream Holdings Inc.*, 614 B.R. 441, 449 (S.D.N.Y. 2020) ("When reviewing for clear error, the court may reverse only if it is left with the definite and firm conviction that a mistake has been committed.") A bankruptcy court's decision to grant summary judgment based upon undisputed facts is reviewed *de novo*. *See In re Treco*, 240 F. 3d 148, 155 (2d Cir.2001) ("[W]ith respect to the grant of partial summary judgment, the posture in which this appeal reaches us, we review *de novo* whether viewing the record in the light most favorable to the non-movant...any genuine and disputed issue of material fact underlies the bankruptcy court's decision.")

*Pro se* pleadings are held to less stringent standards than pleadings drafted by attorneys and the Court is required to read Plaintiff's *pro se* appeals brief liberally and interpret it raising the strongest arguments it suggests. *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007).

**DISCUSSION**

Appellant argues that the Bankruptcy Court erred in entering the Dismissal Order because Appellees have them money to pay Appellant back but are refusing to do so. See ECF No. 10 at 1 ("[A]ppellees are rich enough to pay [me] my money with ...interest because they used money for their own family development and their business. At present[,] their family income is approx[i]maely $25,500.00 per month.") Appelles content that, a debtors, they have "an absolute duty to report

whatever interests they hold in property," and that they have sworn on penalty of perjury in their Chapter 7 petition "as to the truthfulness of their list of assets." ECF No.11 at 3. Appelles argue that: (i) the Chapter 7 trustee reviewed their assets and filed a report of no distribution, (ii) Appellants' allegations that they misrepresented their assets are unfounded; and (iii) the Bankruptcy Court provided Appellant with ample time to provide "proof of the alleged assets or misrepresentation of income but [he] failed to do so." *Id.* Reviewing the bankruptcy court's legal conclusion *de novo* and "viewing the record in the light most favorable to the non-movant," the Court finds the Bankruptcy Court did not err in granting Appelleess' motion for summary judgment. *In re Treco*, 240 F. 3d at 155.

As discussed previously, Plaintiff filed an adversary proceeding requesting that the Bankruptcy Court deny the discharge of Apellees' debt. "One of the central purposes of the Bankruptcy Code and the privilege of discharging is to allow the honest but unfortunate debtor to begin a new life free from debt. In the interest of protecting creditors, however, § 727 requests the denial of discharge under ten enumerated circumstances." *In re Cacioli*, 463 F.3d 229, 234 (2d Cir. 2006). Since Section 727 "impos[es] an extreme penalty for wrongdoing, [it] must be construed strictly against those who object to the debtor's discharge and liberally in favor of the bankrupt." *Id.; see also In re Haddad,* No. 15-74327, 2016 WL 4523829, at *2 (Bankr.E.D.N.Y. Aug.26, 2016) ("The provisions of Section 727 are construed strictly against the objective party and liberally in favor of the debtor.").

"The objecting creditor bears the burden to establish the requirements of section 727 by a preponderance of the evidence." *In re St. Clair,* No. 13-mc-1057, 2014 WL 279850, at *6 (E.D.N.Y. Jan.21, 2014). In the instant case, Appellant seemingly objects to the Debtor's discharge on two grounds.

(2) the debtor, with intent to hinder, delay, or defraud a creditor or an officer of the estate charged with custody of property under this title, has transferred, removed, destroyed, mutilated, or concealed–

(A) Property of the debtor, within one year before the date of the filing of the petition;

(4) the debtor knowingly and fraudulently, in or in connection with the case–

(A) made a false oath or account;

11 U.S.C. § 727 (a), "To prove a [section' 727 (a)(2) violation, a creditor must show an act (i.e., a transfer or concealment of property) and an improper intent (i.e., a subjective intent to hinder, delay or defraud a creditor), and the party seeking to bar discharge must prove that *both* of these components were present during the one year period before bankruptcy." In re Bruno, No.22-10822, 2023 WL 3139919, at *4 (Bankr. S.D.N.Y. Apr. 27, 2023). To prove a section 727 (a)(4)(A) violation, a creditor "must allege facts demonstrating that the Debtor (i) made a statement under oath, (ii) the statement was false; (iii) he knew the statement was false; (iv) he made the statement with fraudulent intent; and (v) the statement related materially to the bankruptcy case." *Id.* at *7.

On December 9th, 2021, the Bankruptcy Court held a hearing with the parties and explained that

although Appellant's complaint contained evidence that Appellees borrowed money from Appellant, there was "no evidence whatsoever that supports the allegation that when this case was filed, [Appellees] had property...or money...that they didn't disclose." ECF No. 2-3 at 23 (B.R., Hearing Transcript). The Bankruptcy Court further stated the relief Appellant requested—a denial of discharge—is "an extreme penalty for wrongdoing" and required Appellant to "come forward with proof that shows that the Debtor is not entitled to the discharge" *Id.* at 23-24. Accordingly, the Bankruptcy Court provided Appellant time to supplement his claims by means of "affidavits, property records, or whatever the [Appellant] thinks supports his claim that the Debtors has assets that they did not disclose" on their Schedules in the Chapter 7

proceeding by January 14, 2022. *Id.* at 24-25, 28 ("[Y]ou've made allegations in your complaint that the Debtors own property in India, in New Hyde Park and that they got money from a car accident and they never told Chapter 7 trustee about and they didn't put it on their Schedules, then you need to provide the Court with some evidence that that's the case. I'm not permitted to just take your word for it..."). The Bankruptcy Court subsequently extended Appellant's time to supplement his claims with evidence of misrepresentations to February 24,2022 and on March 10, 2022, held a hearing where it considered "copies of cancelled checks and other documents and information submitted by Plaintiff."ECF No. 2-3 at 64-66 (B.R., Dismissal Order). The Bankruptcy Court determined that the Appellant "failed to adduce any evidence tending to show the Debtor Defendants failed to

disclose or conceal assets" and entered the Dismissal Order. *Id.*

It is clear from the record the Appellant failed to meet his burden to establish by a "preponderance of the evidence" that Appellees concealed assets or falsified information in their Chapter 7 proceeding and accordingly, the Bankruptcy Court did not err in dismissing Appellant's complaint, While unfortunate that Appellant lent Appellees a substantial sum of money and seemingly did not get paid back, "[e]very Debtor in Bankruptcy has debt, borrowed money from people and they don't pay it back, even though they promise to pay it back, the only evidence that really matters here is whether the Debtors were untruthful when they filed for Bankruptcy," and there is no evidence in the record to suggest that Appellees were intentionally untruthful at

the time they filed for Chapter 7 bankruptcy. ECF No. 2-3 at 30 (B.R., Hearing Transcript); see *also In re Bruno,* 2023 WL 3139919, at *5, *7 (holding that trustee failed to meet its burden under Section 727(a)(2)(A) and 727(a)(4)(A) because he "has alleged no facts demonstrating that the Debtor acted with the intent to hinder, delay, or defraud his creditors" and "the mere failure to list assets does not support an objection to discharge").

Appellant further alleges Apellees' family *now* has the means to pay him back. Appellant suggests that: (I) Appellees' son is a CFO making more than $140,000 a year; (ii) both Appellees receive pension and social security money; and (iii) Appellees used Appellant's money to send their daughter to medical school and she is now a doctor. ECF NO, 18 at 1 (Reply). The fact that

Appellees *now* have the money does not necessitate a denial of the discharge of their debt: "the question isn't whether they have money to pay...The question is whether they *had* money or had the property that they didn't put on their Schedules." at the time that Appellees filed for Bankruptcy. ECF No. 2-3 at 28 (B.R., Hearing Transcript). Appellant provides no evidence–aside from his own testimony–that Appellees concealed assets or falsified information on their schedules in their Chapter 7 bankruptcy proceeding in violation of Section 727(a)(2)(A) or Section 727(a)(4)(A). Having carefully reviewed the entire record, the Court concludes that the Bankruptcy Court's decision to dismiss Appellant's complaint and to grant summary judgment was warranted, and the Bankruptcy Court did not err in reaching that conclusion.[3]

## CONCLUSION

The Court has considered all of the arguments of the parties. For the reasons stated above, the Dismissal Order is AFFIRMED. The Clerk of Court is respectfully directed to enter judgment and close this case.

The Clerk of Court is further directed to mail a copy of this Order to the *pro se* Appellant and to note the mailing on the docket.

SO ORDERED.

/s/ Hector Gonzalez
HECTOR GONZALEZ
United States District Judge

Dated: Brooklyn, New York
May 11, 2023

[1] Pursuant to Federal Rule of Bankruptcy Procedure 8002(a), Plaintiff had fourteen days after entry of the Dismissal Order to file a notice of appeal–until August 3, 2022. On August 2, 2022, the Bankruptcy Court extended Appellant's time to file a notice of appeal to August 24, 2022. ECF No. 2-3 at 75-76. Accordingly, Appellant's notice of appeal is timely filed,

[2] Unless noted, case law quotations in this Order accept all alterations and omit all internal quotation marks, citations, and footnotes.

[3] Appellant requests that "this Honorable Court execute [its' December 20-2022 order and dismiss Appellees all kinds of claims [sic] and stop them to appeal from this court and order them to return $110,000." ECF No. 18 at 18 Given Appellant's *pro se* status, the Court would like to clarify that its December 20, 2022, Order was not a border "dismiss[ing] Appellees." In light of Apellees failure to adhere to their briefing deadlines, the Court entered an order stating that it would consider Appellant's brief unopposed. *See* Text Order dated December 20, 2022. This meant that the Court would consider whether Appellant's brief had any *merit*, this did not mean that the Court would grant Appellant's appeal. In fact ,the outcome of the Court's decision would be the same even if the Court had considered the merits of the instant appeal on the basis of Appellant's papers alone.

**APPENDIX D-United States Bankruptcy Court Eastern District of New York June 27, 2021 Bankruptcy Court Order Dismissed**

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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|---|---|
| In re: | Chapter 7 |
| MARY S. PANDIAN and | Case No. 20-43950 (JMM) |
| SAMUEL J. PANDIAN, | Adv.Pro.No. 21-01010 (JJMM) |
| Debtor. | |
| In re: | |
| BENSAM SWAKEEN, | |
| Plaintiff, | |
| V. | |
| MARY S, PANDIAN, SAMUEL J. PANIDAN, EMILIN PANDIAN, and FREDERICK PANDIAN, | |
| Defendants | |

ORDER TO DISMISS EMILIN PANDIAN AND FEREDERICK PANDIAN

Upon the application made by Lawrence S. Lefkowitz, attorney for the above named Defendants, by oral motion at hearing held on April 22, 2021, for an Order dismissing this case as to Emilin Panidan and Frederick Panidan

due to lack of jurisdiction of this Court over the claims asserted by the Plaintiff against these two no-debtor Defendants, which claims do not arise under title 11 and

did not arise in, and are not related to, this bankruptcy case; and Plaintiff Bensam Swakeen appearing in opposition thereto; and after due deliberation having been had and for the reason set forth on record of the hearing; it is hereby ORDERED that the Plaintiff's adversary Complaint as to Defendants, Emilin Pandian and Frederick Pandian is hereby dismissed due to lack of subject matter jurisdiction under 28 USC § 1334.

Dated: Brooklyn, NY
June 27, 2021

JH Mazer-Marino
United States Bankruptcy Judge

**APPENDIX E-United States Bankruptcy Court Eastern District of New York August 2, 2022**

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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|---|---|
| In re: | Chapter 7 |
| MARY S. PANDIAN and | Case No. 20-43950 (JMM) |
| SAMUEL J. PANDIAN, | Adv.Pro.No. 21-01010 (JJMM) |
| Debtor. | |
| In re: | |
| BENSAM SWAKEEN, | |
| Plaintiff, | |
| V. | |
| MARY S, PANDIAN, SAMUEL J. PANIDAN, | |
| Defendants | |

**ORDER EXTENDING PLAINTIFF'S TIME TO APPEAL ORDER DISMISSING COMPLAINT**

WHEREAS, on February 3, 2021, Plaintiff, proceeding pro se, filed a complaint [ECF No.1] alleging, among other things, that the Defendant Mary S. Pandian's and Samuel J. Pandian's (together, the "Debtor

Defendants") borrowed money from Plaintiff for themselves and their children, Emilin Pandian and Frerderick Pndian (together, the "Non-Debtor Defendants") promised to pay the money back, had the funds to do so, but refused to prepay Plaintiff, and

WHEREAS, by the complaint, Plaintiff sought a judgment denying the Debtor Defendants' discharges and an award of money damages against the Debtor Defendants and the Non-Debtor Defendants, and

WHEREAS, Debtor Defendants filed an Answer [ECF No.6] and an Amended Answer to the Complaint [EC No.7], and

WHEREAS, by Order entered June 27, 2021 [ECF No12], this Court dismissed the Plaintiff's claims against the Non-Debtor Defendants for lack of subject matter jurisdiction, and

WHEREAS, on October 22, 2022, the Debtor Defendants moved to dismiss Plaintiff's claims under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim [ECF No.14] (the "Motion"), and

WHEREAS, on July 20, 2022, the Court entered a order [ECF No.30] granting the Motion and dismissing the claims against the Debtor Defendants (the "Dismissal Order"), and

WHEREAS, pursuant to Fed. R. Bankr. P. 8002(a), the Plaintiff's last day to file a notice of appeal from the Dismissal Order is August 3, 2022, which is the date that is fourteen days after entry of the Dismissal Order, and

WHEREAS, pursuant to Fed. R. Bankr. P. 8002(d), the Court may extend the time to file a notice of appeal for up to 21 days after the time prescribed by Fed. R. Bankr. P. 8001(a); and

WHEREAS, the plaintiff is pro se and may not have received timely notice of entry of the Dismissal Order.

NOW, THEREFORE, IT IS

ORDERED, the tie to appeal from the Dismissal Order is extended to and including August 24, 2022.

Date: Brooklyn, NY
August 2, 2022

JH Mazer-Marino
United States Bankruptcy Judge