NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY APPELLATE PANEL FOR THE FIRST CIRCUIT

BAP NO. RI 08-014

Bankruptcy Case No. 05-15532-ANV
Adversary Proceeding No. 06-01060-ANV

CHARLES CLIFTON EARLE, IV,
Debtor.

PHOEBE MORSE, U.S. Trustee,
Plaintiff-Appellee,

v.

CHARLES CLIFTON EARLE, IV,
Defendant-Appellant.

Appeal from the United States Bankruptcy Court
for the District of Rhode Island
(Hon. Arthur N. Votolato, U.S. Bankruptcy Judge)

Before
Lamoutte, Feeney, and Vaughn,
United States Bankruptcy Appellate Panel Judges.

Charles Clifton Earle, IV, *pro se*, on brief for Appellant.

Romana Elliott, Esq. and P. Matthew Sutko, Esq., on brief for Appellee.

November 18, 2008

Per curiam.

Charles Clifton Earle, IV (the "Debtor") appeals from the bankruptcy court's order denying his motion to extend the deadline for filing a notice of appeal (the "Order Denying Extension")[1] and the order denying reconsideration (the "Order Denying Reconsideration").[2] Because we have concluded that the bankruptcy court did not abuse its discretion in denying either motion, we AFFIRM.

BACKGROUND

The Debtor filed a chapter 13 petition in October, 2005. Shortly thereafter, he converted his case to a chapter 7 case. In April, 2006, the United States Trustee (the "Trustee") filed a complaint objecting to the Debtor's discharge under § 727(a)(3) and (a)(5).[3] In July, 2006, the bankruptcy court entered a scheduling order in which it set a discovery deadline of November 13, 2006. Shortly after the deadline passed, the Debtor's counsel moved to withdraw from representation, which the court allowed.

During the next eight months, the Debtor was unable to retain counsel and failed to comply with discovery. The Trustee moved for default judgment on April 9, 2007, on the

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[1] The Debtor did not include the Order Denying Extension in the Notice of Appeal. However, we have nonetheless determined that it is within the scope of this appeal. See Section B of the Jurisdiction section below.

[2] The Debtor lists on the Notice of Appeal four additional orders that are not properly before the Panel because the appeal is untimely as to those orders. See Section A of the Jurisdiction section below. Additionally, although the appeal is timely as to the Order Denying Reconsideration, the Debtor failed to address it in his brief, and has therefore waived it on appeal. See Section B of the Jurisdiction section below.

[3] Unless otherwise noted, all references to the "Bankruptcy Code" or to statutory sections herein are to the Bankruptcy Code, 11 U.S.C. §§ 101, et seq., as amended by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. All references to "Bankruptcy Rule" shall be to the Federal Rules of Bankruptcy Procedure, and all references to "Rule" shall be to the Federal Rules of Civil Procedure.

grounds that the Debtor had failed to comply with an order directing him to provide discovery. The bankruptcy court held a hearing on the motion and ordered the Debtor to obtain an attorney within one week and complete discovery within thirty days or it would grant the motion for default.

After the thirty day period expired, the court ordered the Trustee to file a status report. The Trustee filed a second motion for default judgment in which she asserted that the Debtor had not satisfactorily complied with the order. Specifically, the Trustee stated that the Debtor's responses to the interrogatories were "evasive, unresponsive and disingenuous," that he had raised improper defenses, and that he had failed to produce any documents. The Debtor filed an objection, stating that he had made a "sincere and reasonable effort" to answer the interrogatories, and that he had informed the Trustee that all "relevant" documents the Trustee requested that were in the Debtor's possession would be made available at a mutually agreeable time and location for inspection and/or copying. The Trustee filed a response explaining that she had instructed the Debtor as to where and when to deliver the documents, and repeated such instructions with precise detail.

The bankruptcy court set a hearing on the matter for August 9, 2007. On the morning of the hearing, the Debtor filed a motion to continue the hearing to allow him time to comply with discovery and recover from a chest cold. The court held the hearing but issued an order granting, in part, the Debtor's motion to continue. The court reset the hearing for August 16, 2007, and ordered the Debtor to deliver the documents and amended interrogatory answers to the Trustee no later than 4:00 p.m. on August 15, 2007.

At the August 16, 2007 hearing, the Trustee stated that the Debtor had delivered boxes of disorganized documents and that he had not adequately answered the interrogatories. The parties agreed that the Debtor would deliver properly organized documents and amended interrogatory answers to the Trustee by August 30, 2007. The court continued the hearing until September 5, 2007.

On August 31, 2007, the Trustee filed a notice of default in which she stated that the Debtor had failed to deliver the documents or amended interrogatory answers, and had instead sent an e-mail presenting "a myriad of excuses" for his failure to do so. The court held a hearing on the matter, during which an attorney appeared on behalf of the Debtor and stated that he would represent the Debtor if he could have 45 days to familiarize himself with the case. On September 7, 2007, the court entered an order granting the original motion for default judgment. On September 17, 2007, the Debtor moved for reconsideration of that order. On September 21, 2007, the court entered an order denying the Debtor's discharge and a "judgment order." On October 1, 2007, the Debtor moved to extend the deadline to appeal the September 7, 2007 default order, which the court denied as moot for the reason that the timely filed motion for reconsideration tolled the appeal period. On October 3, 2007, the Debtor filed a motion asking the judge to recuse himself. On October 11, 2007, the Debtor moved for reconsideration of the judgment order. On November 5, 2007, the court entered orders denying both motions for reconsideration and denying the motion for recusal.

On December 5, 2007, the Debtor filed a motion to extend the deadline to appeal "the decisions denying [his] motion to reconsider and motion to recuse judge and all other decisions in this adversary proceeding, including, but not limited to the denial of [his] discharge." The

Debtor argued that the following facts established excusable neglect for his failure to file a timely notice of appeal: he was away from his home at the time the orders in question were issued; he did not ask a friend to check his mail during that time because the clerk's office had informed him that the matters were under advisement with a "status check date" of December 14, 2007,[4] and he thus concluded that no decisions would issue before said date; and there was "reasonable doubt" as to whether the orders were delivered in time to allow the Debtor to file a timely notice of appeal because he was not home during that time and cannot attest to when the orders were delivered. The Debtor further asserted that the court should extend the deadline because he had previously filed all motions on time, he was acting *pro se*, and the consequences of the default judgment were "severe and dire." The Trustee filed an objection in which she argued that the Debtor had failed to demonstrate excusable neglect pursuant to Bankruptcy Rule 8002(c)(2).

The bankruptcy court held a hearing on the matter, during which the parties reiterated their positions. At the conclusion of the hearing, the court took the matter under advisement. On January 10, 2008, the court issued the Order Denying Extension, in which it found that the Debtor had not acted in good faith throughout the proceedings and that he had not met his burden of establishing excusable neglect.

On January 22, 2008, the Debtor filed a motion for reconsideration, arguing that the bankruptcy court should have given the Debtor the "benefit of the doubt" that he did not receive the November 15, 2007 orders until November 19, 2007. The Debtor further argued that the standard for excusable neglect set forth in Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd.

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[4] An entry on the docket dated October 15, 2007, provides as follows: "Matter Under Advisement Re:(related document: 64 Motion to Reconsider, filed by Defendant Charles Clifton Earle, 70 Motion to Recuse Judge, filed by Defendant Charles Clifton Earle) Status Check re Matter Under Advisement on 12/14/2007."

P'ship, 507 U.S. 380 (1993) should be extended to include his circumstances: "being unemployed, financially indigent and in the process of eviction and diligently busy trying to earn a living and looking for affordable housing out of state for several days at a time." Lastly, the Debtor argued that the court had simply "sided" with the Trustee without making any findings of fact, and that the Debtor was in possession of an audio recording between members of the Trustee's staff demonstrating that the Trustee had not acted in good faith. The Trustee filed an objection arguing that the Debtor had failed to satisfy the standard for relief under Rule 60(b). On February 13, 2008, the court entered the Order Denying Reconsideration, in which it incorporated by reference the reasons for denial set forth in the Trustee's objection. This appeal followed.

JURISDICTION

A. Timeliness

A notice of appeal must be filed within ten days of the date of entry of the judgment, order or decree appealed from. Bankruptcy Rule 8002(a). However, a motion for reconsideration tolls the appeal period if it is filed within the appeal period such that the appeal period for the underlying order begins to run upon entry of the order disposing of the motion for reconsideration. See Bankruptcy Rule 8002(b).

It is well settled that the time limits established for filing a notice of appeal are "mandatory and jurisdictional." Yamaha Motor Corp. v. Perry Hollow Mgmt Co., Inc. (In re Perry Hollow Mgmt Co., Inc.), 297 F.3d 34, 38 (1st Cir. 2002). If a notice of appeal is not timely filed, the bankruptcy appellate panel does not have jurisdiction over the appeal. See Colomba v. Solomon (In re Colomba), 257 B.R. 368, 369 (B.A.P. 1st Cir. 2001).

Here, the Debtor listed five orders on the Notice of Appeal. The orders, the dates they were entered on the docket and the deadlines for filing a notice of appeal were as follows:

	Order Description	Entered on docket	Appeal deadline
1	Order Denying Reconsideration	February 13, 2008	February 25, 2008[5]
2	Order denying Debtor's motion to recuse judge	November 5, 2007	November 15, 2007
3	Order denying motion to reconsider order granting Trustee's motion for default judgment	November 5, 2007	November 15, 2007
4	Judgment denying Debtor's discharge	September 21, 2007	October 1, 2007[6]
5	Order granting Trustee's motion for default judgment	September 7, 2007	November 15, 2007[7]

As the Debtor filed the Notice of Appeal on February 25, 2008, the appeal is timely only as to the Order Denying Reconsideration. The appeal is untimely as to the other four orders, and the Panel lacks jurisdiction to review them. See Marie v. Allied Home Mortgage Corp., 402 F.3d 1, 6 (1st Cir. 2005); In re Colomba, 257 B.R. at 369.

B. Scope of Appeal

Where an appellant includes an order denying reconsideration in the notice of appeal without also appealing the underlying order, the reviewing court may nonetheless construe the

[5] As the tenth day of the appeal period was a Saturday, the deadline to file a notice of appeal was the next business day, February 25, 2008. See Bankruptcy Rule 9006(a).

[6] Because the Debtor filed the motion seeking reconsideration of order (4) more than ten days after its entry on the docket, it did not toll the appeal period. See Bankruptcy Rule 9006(a). The deadline for appealing order (4) was, therefore, October 1, 2007. See Bankruptcy Rule 8002(a) & (b).

[7] Because the Debtor filed the motion seeking reconsideration of order (5) within ten days of its entry on the docket, the time to appeal order (5) ran from November 5, 2007, the date order (3) denying reconsideration was entered on the docket. See Bankruptcy Rule 8002(b). The appeal period thus expired on November 15, 2007. See Bankruptcy Rule 8002(a).

notice of appeal to include the underlying order. See Zukowski v. St. Lukes Home Care Program, 326 F.3d 278, 283 n.4 (1st Cir. 2003) (explaining that notice of appeal may be read to include underlying order and not simply order denying reconsideration when it "can be fairly inferred from the notice" that appellant intended to appeal underlying order); Allied Home Mortgage Corp., 402 F.3d at 8-9 (explaining that First Circuit has been "liberal" in determining subject of appeals and that determination is based on appellant's intent, record as a whole and whether appellee has been mislead by an unclear notice of appeal). Here, both parties addressed the Order Denying Extension in their briefs, and at oral argument the Trustee asserted that the only orders properly before the Panel were the Order Denying Extension and the Order Denying Reconsideration. The record therefore reflects that the Debtor intended to appeal the Order Denying Extension and that the Trustee was not misled. Therefore, we read the notice of appeal to include the Order Denying Extension.

C. Finality

We may hear appeals from "final judgments, orders and decrees [pursuant to 28 U.S.C. § 158(a)(1)] or with leave of the court, from interlocutory orders and decrees [pursuant to 28 U.S.C. § 158(a)(3)]." Fleet Data Processing Corp. v. Branch (In re Bank of New England Corp.), 218 B.R. 643, 645 (B.A.P. 1st Cir. 1998). "A decision is final if it 'ends the litigation on the merits and leaves nothing for the court to do but execute the judgment.'" Id. at 646 (citations omitted). An order denying a motion to extend the deadline to file a notice of appeal is a final order. Balzotti v. RAD Invs., LLC (In re Shepherds Hill Dev. Co., LLC), 316 B.R. 406, 413 (B.A.P. 1st Cir. 2004). An order denying reconsideration is final if the underlying order is final and together the orders end the litigation on the merits. Eresian v. Koza (In re Koza), 375 B.R. 711, 716 (B.A.P. 1st Cir. 2007). We thus have jurisdiction to review the Order Denying

Extension and the Order Denying Reconsideration. See id.; In re Shepherds Hill, 316 B.R. at 413.

STANDARD OF REVIEW

We review a court's denial of a motion to extend the deadline for filing a notice of appeal for abuse of discretion. In re Shepherds Hill, 316 B.R. at 413. However, whether a party has demonstrated "excusable neglect" for purposes of Bankruptcy Rule 8002(c)(2) is a question of law subject to *de novo* review. Id. We review a court's denial of a motion for reconsideration for abuse of discretion. Torres-Alamo v. Puerto Rico, 502 F.3d 20, 25 (1st Cir. 2007). Abuse occurs when a material factor deserving significant weight is ignored, when an improper factor is relied upon, or when all proper and no improper factors are assessed, but the court makes a serious mistake in weighing them. Latin Am. Music Co. v. Archdiocese of San Juan of the Roman Catholic & Apostolic Church, 499 F.3d 32, 43-44 (1st Cir. 2007).

DISCUSSION

A. Order Denying Extension

Generally, motions to extend the deadline for filing a notice of appeal must be filed before the appeal period expires. Bankruptcy Rule 8002(c)(2).[8] However, the bankruptcy court may grant such motion after the appeal period expires if the motion is filed within twenty days of

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[8] Bankruptcy Rule 8002(c)(2) provides:

> A request to extend the time for filing a notice of appeal must be made by written motion filed before the time for filing a notice of appeal has expired, except that such a motion filed not later than 20 days after the expiration of the time for filing a notice of appeal may be granted upon a showing of excusable neglect. An extension of time for filing a notice of appeal may not exceed 20 days from the expiration of the time for filing a notice of appeal otherwise prescribed by this rule or 10 days from the date of entry of the order granting the motion, whichever is later.

expiration of the appeal period and the movant demonstrates excusable neglect. Id. Here, the Debtor filed the motion to extend the deadline for filing a notice of appeal within twenty days of expiration of the period.

The "excusable neglect" determination "is at bottom an equitable one, taking account of all relevant circumstances surrounding the party's omission." Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd., 507 U.S. at 395;[9] see also Bennett v. City of Holyoke, 362 F.3d 1, 5 (1st Cir. 2004). The factors a court can consider include: the danger of prejudice to the other party, the length of delay and its potential impact on judicial proceedings, the reason for the delay, including whether it was within the reasonable control of the movant, and whether the movant acted in good faith. Pioneer, 507 U.S. at 395. The most important factor in this test is the reason for the delay; the movant must provide a satisfactory explanation. Graphic Commc'ns Int'l Union v. Quebecor Printing Providence, Inc., 270 F.3d 1, 6 (1st Cir. 2001); EnvisioNet Computer Servs., Inc. v. ECS Funding LLC, 288 B.R. 163, 166 (D. Me. 2002). The First Circuit has repeatedly upheld findings of "no excusable neglect" in the absence of unique or extraordinary circumstances. Id.

Here, the Debtor offers three reasons to support his excusable neglect argument: (1) he was traveling; (2) the clerk's office provided him with confusing information; and (3) he was acting *pro se*. However, courts have routinely rejected these arguments. See Witty v. Dukakis, F.3d 517, 520 (1st Cir. 1993); United States v. Heller, 957 F.2d 26, 31-32 (1st Cir. 1992);

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[9] Although in Pioneer the Court was considering the excusable neglect provision of Bankruptcy Rule 9006(b)(1), courts generally apply the Pioneer standard of excusable neglect for purposes of Bankruptcy Rule 8002(c) as well. In re Shepherds Hill, 316 B.R. at 415 n.11; see also Pratt v. Philbrook, 109 F.3d 18, 19 (1st Cir. 1997) (citing Stutson v. United States, 516 U.S. 193 (1996)).

Citibank, N.A. v. Roanca Realty, Inc. (In re Roanca Realty, Inc.), 747 F.2d 816, 817 (1st Cir. 1984).[10]

Specifically, the Debtor argues that his being out of town when the bankruptcy court issued the order granting the Trustee's motion for default judgment constitutes "unique and extraordinary circumstances" because he was trying to earn income and find a new place to live. However, case law does not support this position. The "mere lack of notice does not constitute excusable neglect." In re Mayhew, 223 B.R. 849, 855-56 (D.R.I. 1998); In re Roanca Realty, 747 F.2d at 817; In re Shepherds Hill, 316 B.R. at 415.

Next, the Debtor argues that the "confusion and misunderstanding" he experienced as a result of an employee of the clerk's office informing him that the matters in question were under advisement and scheduled for a "status check date" on December 14, 2007, constitutes excusable neglect. As an initial matter, the information regarding the "status check date" was not inaccurate; it is consistent with the information that appears on the public docket. Moreover, the phrase "status check" does not suggest that the bankruptcy court could not or would not render a decision before December 14, 2007, but simply that the status would be checked *if* the court did not render a decision by that date.

Further, despite any confusion he may have had, the Debtor had a duty to monitor the docket. Witty v. Dukakis, 3 F.3d at 520 (explaining that "parties to an ongoing case have an independent obligation to monitor all developments in the case and cannot rely on the clerk's office to do their homework for them"); In re Shepherds Hill, 316 B.R. at 415; Warrick v.

[10] The First Circuit has explained that decisions rendered before Pioneer remain instructive, but must be read with the gloss supplied by the Supreme Court in Pioneer. Davila-Alvarez v. Escuela de Medicina Universidad Central del Caribe, 257 F.3d 58, 64 (1st Cir. 2001).

Birdsell (In re Warrick), 278 B.R. 182, 187 (B.A.P. 9th Cir. 2002) (explaining 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").

Additionally, the Debtor's argument that the bankruptcy court should have allowed him to file his notice of appeal late because he was *pro se* is not supported by case law. While it is true that *pro se* parties are entitled to have their pleadings liberally construed, Estelle v. Gamble, 429 U.S. 97, 106 (1976), they are not excused from having to comply with procedural rules. Feinstein v. Moses, 951 F.2d 16, 20-21 (1st Cir. 1991); Heller, 957 F.2d at 31-32 (holding that *pro se*'s reliance on inaccurate statements by clerk's office staff in late filing notice of appeal did not constitute "unique circumstances").

Moreover, the bankruptcy court's finding that the Debtor did not act in good faith throughout the proceeding is supported by the record. The Trustee filed the complaint objecting to the Debtor's discharge in April, 2006. A year and a half later, the Debtor had still not complied with discovery despite multiple orders directing him to do so. The bankruptcy court could have entered default judgment as early as May 9, 2007, but gave the Debtor several additional opportunities to comply with discovery and to be heard on the matter before granting the Trustee's motion for default judgment on September 7, 2007.

Lastly, we have previously concluded that an appellant had not demonstrated excusable neglect on facts similar to those in the instant appeal. In re Shepherds Hill, 316 B.R. at 414-17. In In re Shepherds Hill, the appellants were defendants in an adversary proceeding who had failed to answer the complaint after more than three years. Id. at 409. The bankruptcy court entered a default judgment against them. Id. After the deadline to appeal the default judgment

passed, but before the twenty day deadline under Bankruptcy Rule 8002(c)(2) passed, the appellants filed a motion to extend the appeal period and a motion for relief from judgment under Rule 60(b). Id. at 412-13. They argued that excusable neglect existed because one of the appellants had not received notice of entry of the default judgment until after the appeal period had expired. Id. at 415. The Panel rejected this argument on the grounds that "mere lack of notice does not constitute excusable neglect," and also because the appellants had failed to provide the bankruptcy court with current addresses. Id. at 415-16.

As such, the bankruptcy court did not err in concluding that the Debtor failed to demonstrate excusable neglect, and did not abuse its discretion in denying the Debtor's motion to extend the deadline for filing the notice of appeal. Bankruptcy Rule 8002(c)(2); Pioneer, 507 U.S. at 395; Bennett, 362 F.3d at 5.

B. Order Denying Reconsideration

A motion for reconsideration is properly treated as a motion to alter or amend the judgment under Rule 59(e), made applicable by Bankruptcy Rule 9023, or as a motion for relief from judgment under Rule 60(b), made applicable by Bankruptcy Rule 9024. See Aguiar v. Interbay Funding, LLC (In re Aguiar), 311 B.R. 129, 135 n.9 (B.A.P. 1st Cir. 2004) (citations omitted). Because the Debtor filed the motion for reconsideration within ten days of entry of the Order Denying Extension, we would typically review it as a motion to alter or amend the judgment under Rule 59(e).[11] See Appeal of Sun Pipe Line Co., 831 F.2d 22, 24 (1st Cir. 1987); see also Aybar v. Crispin-Reyes, 118 F.3d 10, 14 n.3 (1st Cir. 1997) (explaining that regardless

[11] To be considered under Rule 59(e), the motion for reconsideration must be filed within ten days of the order appealed from or, if (as here) the tenth day is a weekend day or federal holiday, then on the next day that is not a weekend day or federal holiday. See Bankruptcy Rule 9006(a).

of how it is characterized, post-judgment motion made within ten days of entry of judgment that questions correctness of judgment is properly construed under Rule 59(e)). However, because the crux of the Debtor's motion for reconsideration rests on an excusable neglect argument,[12] and because the bankruptcy court construed it as a motion for relief from judgment under Rule 60(b), it is appropriate to review it under the Rule 60(b) standard. See Rule 60(b)(1) (providing that a party may seek relief from judgment for mistake, inadvertence, surprise, or excusable neglect). The distinction is ultimately of no consequence, however, as the motion failed to satisfy both standards.

1. Rule 59(e)

To meet the threshold requirements of a successful Rule 59(e) motion, the motion "must demonstrate the 'reason why the court should reconsider its prior decision' and 'must set forth facts or law of a strongly convincing nature' to induce the court to reverse its earlier decision." Lopez Jimenez v. Pabon Rodriguez (In re Pabon Rodriguez), 233 B.R. 212, 219 (Bankr. D.P.R. 1999), aff'd, 17 Fed. Appx. 5 (1st Cir. 2001). The movant must establish a manifest error of law or must present newly discovered evidence. Id.; Zukowski, 326 F.3d at 282 n.3. The movant cannot use a Rule 59(e) motion to cure its procedural defects or to offer new evidence or raise arguments that could and should have been presented originally to the court. See Rodriguez, 233 B.R. at 219. Courts generally deny Rule 59(e) motions because of the narrow purpose for which they are intended. Id. at 220. Here, the Debtor failed to establish a manifest error of law, or

[12] The Debtor argued that the bankruptcy court should have given the Debtor the "benefit of the doubt" that he did not receive the November 15, 2007 orders until November 19, 2007, that the Pioneer standard should be extended, and that the court had "sided" with the Trustee without making any findings of fact.

present newly discovered evidence, and therefore failed to satisfy the narrow purpose of Rule 59(e). See id.

2. Rule 60(b)

The Debtor argued below that the court should reconsider its Order Denying Extension because excusable neglect existed. Rule 60(b) provides that a party may seek relief from judgment for certain reasons, including excusable neglect. Rule 60(b)(1). To prevail on a Rule 60(b) motion, the movant must demonstrate: (1) timeliness; (2) exceptional circumstances justifying relief; and (3) the absence of unfair prejudice to the opposing party. See Teamsters, Chauffeurs, Warehousemen & Helpers Union, Local No. 59 v. Superline Transp. Co., Inc., 953 F.2d 17, 20 (1st Cir. 1992).

Bankruptcy courts have broad discretion in deciding motions for relief under Rule 60(b). See Davila-Alvarez v. Escuela de Medicina Universidad Central del Caribe, 257 F.3d 58, 63 (1st Cir. 2001). The denial of a Rule 60(b) motion should be reviewed with "the understanding that relief under Rule 60(b) is extraordinary in nature and that motions invoking that rule should be granted sparingly." Karak v. Bursaw Oil Corp., 288 F.3d 15, 19 (1st Cir. 2002); see also U.S. Steel v. M. DeMatteo Constr. Co., 315 F.3d 43, 51 (1st Cir. 2002) (citations omitted). Here, excusable neglect was the only Rule 60(b) grounds the Debtor alleged in his motion for reconsideration. As discussed above, the Debtor failed to demonstrate excusable neglect. The bankruptcy court, therefore, did not abuse its discretion in denying the Debtor's motion for reconsideration. See id.

C. Public Availability of Certain Orders

Lastly, the Debtor complains that language contained in the Order Denying Reconsideration and the Order Denying Motion for Recusal, which are readily accessible to the

public as they are posted on the bankruptcy court's web page, is prejudicial to him and asks that the bankruptcy court remove the orders from its web page. Although orders of the bankruptcy court generally are public records, scandalous or defamatory matter contained in a paper filed in a bankruptcy case may be stricken or impounded when justice requires. See 11 U.S.C. § 107(b); Bankruptcy Rule 9018. In the present case, we find no objectionable language in the Order Denying Reconsideration. Although we do not find the language in the Order Denying Motion for Recusal defamatory, we do find certain language of the bankruptcy court to be highly inappropriate and unnecessary. The offending language is set forth below:

[REDACTED]

Therefore, we ORDER the bankruptcy court to REDACT the aforementioned language from the Order Denying Motion for Recusal that appears on the court's web page. Moreover, these statements will be redacted from this opinion when posted on the Bankruptcy Appellate Panel's web page.

CONCLUSION

As we conclude that the bankruptcy court did not abuse its discretion in entering the Order Denying Extension or the Order Denying Reconsideration, we **AFFIRM**. Additionally, we **ORDER** the bankruptcy court to **REDACT** certain language from the Order Denying Motion for Recusal.