

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

In Re: Mark Andrew MacQuarrie

MARK ANDREW MACQUARRIE,

Appellant,

v.

Case No: 6:17-cv-1694-Orl-40

JP MORGAN CHASE BANK, N.A.,

Appellee.

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ORDER

This cause is before the Court on Appellant's Motion to Vacate, filed October 3, 2018. (Doc. 16). On July 20, 2018, Appellant filed his Initial Brief. (Doc. 13). On August 17, 2018, Appellee filed its Response to Appellant's Initial Brief. (Doc. 14). Appellee attempted to serve the Response Brief on Appellant by email via Notice of Electronic Filing. (Doc. 14, p. 25). On September 6, 2018, the Court entered the Order of Dismissal affirming the bankruptcy court's order. (Doc. 15). Appellant now asks this Court to vacate its Order of Dismissal (Doc. 15), arguing that he was not properly served with Appellee's Response Brief. (Doc. 14). In the Motion to Vacate, Appellant also requests the Court strike from the record all briefs and hold an evidentiary hearing. (Doc. 16, p. 4). On October 9, 2018, Appellee filed its Response to Appellant's Motion to Vacate, stating it does not oppose vacating the order, but opposes Appellant's other requested forms of relief. (Doc. 18).

As a *Pro Se* Appellant, service may be made on Appellant by any of the following methods: (1) personal delivery; (2) mail; or (3) third-party commercial carrier for delivery

within three days. Fed. R. Bankr. P. 8011. Electronic service is notably missing from these methods, which is the method Appellee used in its attempt to serve Appellant the Response Brief. (Doc. 14, p. 25). Therefore, the Court finds that Appellant has never been properly served Appellee's Response Brief.

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. Appellant's Motion to Vacate is **GRANTED IN PART** and **DENIED IN PART**.

a. The Motion is **GRANTED** as to vacating the Order of Dismissal (Doc. 15).

b. The Motion is otherwise **DENIED**.

2. Appellant's Motion for Extension of Time to File Notice of Appeal (Doc. 17) is **DENIED AS MOOT**.

3. Appellant is ordered to file a reply to Appellee's Response Brief by October 29, 2018.

DONE AND ORDERED in Orlando, Florida on October 10, 2018.


PAUL G. BYRON
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties