

FILED

MAY 13 2021

SUSAN M. SPRAUL, CLERK
U.S. BKCY. APP. PANEL
OF THE NINTH CIRCUIT

**UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE NINTH CIRCUIT**

In re:

MARY CUMMINS-COBB,

Debtor.

MARY CUMMINS-COBB,

Appellant,

v.

KONSTANTIN KHIONIDI, AS
TRUSTEE OF THE COBBS TRUST,

Appellee.

BAP No. CC-21-1100

Bk. No. 2:17-bk-24993-RK

Adv. No. 2:18-ap-01066-RK

**CLERK'S ORDER RE
FINALITY
(Response Required)**

On March 18, 2021, the bankruptcy court entered an order denying a motion to dismiss an adversary proceeding and an application to strike the motion to dismiss. Bankruptcy Court Docket at 202 (Order Denying Motion and Application). Debtor Mary Katherine Cummins-Cobb filed a motion for reconsideration of that order on March 23, 2021. Bankruptcy Court Docket at 206 (Motion to Rehear Motion to Dismiss). An order denying reconsideration was entered on April 27, 2021. Bankruptcy Court Docket at 208 (Order Denying Defendant's Motion to Rehear Motion to Dismiss). Debtor filed a notice of appeal on May 10, 2021. Bankruptcy Court Docket at 210 (Notice of Appeal).

A jurisdictional issue must be resolved at this time. The order on appeal denied a motion to dismiss the adversary proceeding and denied an application to strike the appellant's motion to dismiss. Thus, the order on appeal does not appear to fully and finally dispose of the underlying litigation. *See Slimick v. Silva (In re Slimick)*, 928 F.2d 304, 307 (9th Cir. 1990).

No later than **Thursday, May 27, 2021**:

- a. Appellant must file with the BAP a written, legally-sufficient response explaining how the order on appeal is final and immediately reviewable under 28 U.S.C. § 158(a)(1); or
- b. Appellant must file with the BAP a motion for leave to appeal explaining why the BAP should hear the above-referenced appeal before the full and final disposition of the entire adversary proceeding. *See Lompa v. Price (In re Price)*, 79 B.R. 888, 889 (9th Cir. BAP 1987), *aff'd*, 871 F.2d 97 (9th Cir. 1989).

Failure to comply with the requirements of this order may result in dismissal of this appeal without further notice to the parties.

FOR THE PANEL,

Susan M. Spraul

Susan M. Spraul, Clerk of Court