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In the United States Bankruptcy Court  
for the  
Southern District of Georgia  
Savannah Division

In the matter of:	)	
	)	Adversary Proceeding
WILSON HERMAN LEE BROWN	)	
(Chapter 13 Case <u>97-40160</u> )	)	Number <u>97-4034</u>
	)	
<i>Debtor</i>	)	
	)	
	)	
WILSON HERMAN LEE BROWN	)	
	)	
<i>Plaintiff</i>	)	
	)	
v.	)	
	)	
JOE ADDISON, INC. )	)	
	)	
<i>Defendant</i>	)	

**ORDER ON PLAINTIFF'S MOTION TO EXTEND TIME**  
**FOR FILING NOTICE OF APPEAL**

This adversary proceeding began as an action by Wilson Brown, Debtor, to recover Plaintiff's vehicle which Defendant had repossessed prior to the filing of the underlying petition for relief under Chapter 13. This Court entered an order on July 3, 1997, directing judgment for Defendant. Plaintiff filed the instant Motion to Extend Time

to File Notice of Appeal on August 1, 1997. Defendant submitted a Reply Brief in Opposition on August 11, 1997.

Notice of appeal must be filed with the clerk within ten (10) days of the date of entry of judgment appealed from. Fed. R. Bankr. P. 8002(a). The order from which Debtor appealed was entered on July 3, 1997. The tenth day following was July 13, which was a Sunday; therefore, the last day on which Debtor could file his notice of appeal was Monday, July 14, 1997. Fed. R. Bankr. P. 9006(a).

Debtor seeks to bring this Motion to Extend under subsection (c) of Rule 8002.<sup>1</sup> Rule 8002(c) specifically states that in no event may the Court grant any such extension to exceed twenty (20) days after the expiration of the ten day appeal period. Ellenberg v. Board of Regents of the University System of Georgia, 194 B.R. 690 (Bankr. N.D.Ga. 1996) (Drake, J.). In this case, the additional 20 days ended on August 3, 1997. Under the plain language of Rule 8002(c), therefore, this Court cannot allow Plaintiff to

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<sup>1</sup> Fed. R. Bankr. P. 8002(c) provides:

The bankruptcy judge may extend the time for filing the notice of appeal by any party for a period not to exceed 20 days from the expiration of the time otherwise prescribed by this rule. A request to extend the time for filing a notice of appeal must be made before the time for filing a notice of appeal has expired, except that a request made no more than 20 days after the expiration of the time for filing a notice of appeal may be granted upon a showing of excusable neglect.

file a notice of appeal later than August 3. Fed. R.Bankr. P. 8002(c).<sup>2</sup>

In other words, when Debtor filed his motion on August 1, a timely appeal could have been filed with Court approval. No such notice of appeal was filed on that date and the Court lacks authority to extend the date for timely filing of a notice of appeal beyond August 3, even if Debtor could show excusable neglect.

In light of the foregoing, IT IS THE ORDER OF THIS COURT that the Plaintiff's Motion to Extend Time for Filing Notice of Appeal is denied.

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Lamar W. Davis, Jr.  
United States Bankruptcy Judge

Dated at Savannah, Georgia

This \_\_\_\_ day of September, 1997.

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<sup>2</sup> Fed. R.Bankr. P. 9006(b)(3) provides:

The court may enlarge the time for taking action under Rules 1006(b)(2), 1017(e), 3002(c), 4003(b), 4004(a), 4007(c), 8002, and 9033, *only to the extent and under the conditions stated* in those rules. (emphasis supplied). Rule 8002 specifically limits the power of this Court to extend time for filing a notice of appeal to "a period not to exceed 20 days from the expiration of the time otherwise prescribed by this rule." Fed. R.Bankr. P. 8002(c).