

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

IN RE DICKINSON THEATRES,
INC.,

Debtor.

BAP No. KS-12-089

DICKINSON THEATRES, INC.,

Appellant,

v.

SPIRIT MASTER FUNDING, LLC,

Appellee.

Bankr. No. 12-22602
Chapter 11

ORDER REOPENING APPEAL AND
SETTING APPELLEE'S OSC REPLY
DEADLINE

November 20, 2012

Before MICHAEL and ROMERO, Bankruptcy Judges.

The matter before the Court is Appellant Dickinson Theatres, Inc.'s Motion, Pursuant to Fed. R. Bankr. P. 8011 and Fed. R. Civ. P. 60, to Vacate Order Dismissing Appeal, filed November 16, 2012 (the "Motion").

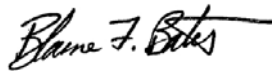
On November 15, 2012, this appeal was dismissed for failure to prosecute on the ground that Appellant did not file a response to our October 29, 2012, Order to Show Cause Why Appeal Should Not Be Considered For Dismissal As Interlocutory (the "OSC"), and that the deadline to do so had expired. Contemporaneously with its filing of the instant Motion, Appellant also filed its One Document pursuant to 10th Circuit BAP Local Rule 8001-4 in addition to its Response to the OSC. As such, no further documents are due and outstanding from Appellant, and we note that the mandate has not yet issued in this appeal. Because of the minimal delay and counsel's explanation therefor, we conclude

that the Motion should be granted and this appeal should be reopened.

Accordingly, it is HEREBY ORDERED that:

- (1) The Motion is GRANTED.
- (2) The Dismissal Order entered November 15, 2012, is VACATED.
- (3) This appeal is REOPENED.
- (4) Appellee's reply to Appellant's response to the OSC, if any, must be served and filed within fourteen (14) days from the date of this Order.

For the Panel:



Blaine F. Bates
Clerk of Court