

1 TALLY MINDY WIENER,

2
3 *Appellant,*

4
5 v.

No. 18-1374-bk

6
7 OCEAN RIG UDW INC., IRAKLIS
8 SBAROUNIS, DRILL RIGS
9 HOLDINGS INC., DRILLSHIPS
10 FINANCING HOLDING INC.,
11 DRILLSHIPS OCEAN VENTURES
12 INC.,

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14 *Debtors-Appellees,*

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16 SIMON APPELL, Foreign
17 Representative, ELEANOR FISHER,
18 Foreign Representative,

19
20 *Debtors.*

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22 FOR APPELLANT:

TALLY MINDY WIENER, *pro se*,
New York, NY.

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25 FOR APPELLEE:

DANIEL A. RUBENS, Orrick,
Herrington & Sutcliffe LLP,
New York, NY (Evan C.
Hollander, Emmanuel Fua,
Orrick, Herrington & Sutcliffe
LLP, New York, NY, Kelsi B.
Corkran, Orrick, Herrington &
Sutcliffe LLP, Washington, DC,
on the brief).

1 Appeal from a judgment of the United States District Court for the
2 Southern District of New York (John G. Koeltl, *Judge*).

3 UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED,
4 AND DECREED that the judgment of the District Court is AFFIRMED.

5 Tally Mindy Wiener, an attorney appearing pro se, appeals the dismissal
6 by the District Court (Koeltl, J.) of her appeal of orders from the Bankruptcy
7 Court for the Southern District of New York (Glenn, U.S.B.J.) recognizing the
8 Cayman Islands–based reorganization of Ocean Rig UDW Inc. (UDW) and three
9 of its subsidiaries (together with UDW, the Debtors) and providing related relief.
10 We assume the parties’ familiarity with the facts and record of prior proceedings,
11 to which we refer only as necessary to explain our decision to affirm.

12 The Bankruptcy Court recognized the Debtors’ Cayman Islands–based
13 reorganization as a foreign main proceeding under Chapter 15 of the Bankruptcy
14 Code. Supp. App’x 618–52. In a separate order, the District Court granted
15 related relief, including an automatic stay of all proceedings against the Debtors
16 in the United States. Id. at 653–58; see 11 U.S.C. §§ 362, 1517, 1519–1521.
17 Wiener, a purported shareholder of UDW, appealed to the District Court, which

1 dismissed her appeal for lack of appellate standing and due to equitable
2 mootness. Wiener challenges both holdings on appeal.

3 “To have standing to appeal from a bankruptcy court ruling in this Circuit,
4 an appellant must be an ‘aggrieved person,’ a person directly and adversely
5 affected pecuniarily by the challenged order of the bankruptcy court. . . . The
6 stringency of our rule is rooted in a concern that freely granting open-ended
7 appeals to those persons affected by bankruptcy court orders will sound the
8 death knell of the orderly disposition of bankruptcy matters.” In re Gucci, 126
9 F.3d 380, 388 (2d Cir. 1997) (quotation marks omitted). “This test is stricter than
10 Article III’s injury in fact test.” In re Barnet, 737 F.3d 238, 242 (2d Cir. 2013)
11 (quotation marks omitted).

12 Wiener argues that “[s]he is a shareholder aggrieved by injunctions to
13 which she is subject, to which she remains subject because they are ongoing in
14 the U.S.” That Wiener is subject to these injunctions does not, without more,
15 make her an “aggrieved person.” See Kane v. Johns-Manville Corp. (In re
16 Johns-Manville Corp.), 843 F.2d 636, 642 (2d Cir. 1988) (“[I]f appellate standing is
17 not limited, bankruptcy litigation will become mired in endless appeals brought

1 by the myriad of parties who are indirectly affected by every bankruptcy court
2 order.”). Instead, Wiener must demonstrate that her pecuniary interests were
3 directly and adversely affected by the injunctive relief. See In re Gucci, 126 F.3d
4 at 388. Wiener has not pursued any action against UDW that has been stayed
5 because of the injunctive relief, and her brief does not identify any action that she
6 plans to pursue. Wiener has also failed to identify any other way her pecuniary
7 interests have been directly and adversely affected by the challenged orders.
8 Under the Cayman Islands Companies Law, the property of a company that is
9 “winding up” “shall be applied in satisfaction of its liabilities pari passu and
10 subject thereto shall be distributed amongst the members according to their
11 rights and interests in the company.” See Supp. App’x 385 (quoting Cayman
12 Islands Companies Law § 140(1)). Here, the District Court found that “as of the
13 [D]ebtors’ initiation of the Cayman Proceedings, UDW was insolvent.” In re
14 Ocean Rig UDW Inc., 585 B.R. 31, 36 (S.D.N.Y. 2018). Wiener does not argue
15 that the District Court’s finding of insolvency was in error; nor does she show
16 that, as a shareholder, she has a pecuniary interest in the reorganization of the
17 insolvent Cayman Islands corporation.

1 Wiener argues that our decision in Morning Mist Holdings Ltd. v. Krys (In
2 re Fairfield Sentry Ltd.), 714 F.3d 127 (2d Cir. 2013), demonstrates that she is an
3 aggrieved person. But In re Fairfield did not discuss appellate standing, and the
4 injunctive relief entered in In re Fairfield prevented the appellant from pursuing
5 a specific action it had already instituted. Id. at 130–31; see In re Barnet, 737
6 F.3d at 243.

7 We therefore conclude that the District Court correctly dismissed Wiener’s
8 appeal for lack of appellate standing. We have considered Wiener’s remaining
9 arguments and conclude that they are without merit. For the foregoing reasons,
10 the judgment of the District Court is AFFIRMED.

11 FOR THE COURT:
12 Catherine O’Hagan Wolfe, Clerk of Court


The signature is written in cursive and is positioned over a circular official seal of the United States Second Circuit Court of Appeals. The seal contains the text "UNITED STATES", "SECOND CIRCUIT", and "COURT OF APPEALS".