

[HN3] Not all of the Poulis factors need be met for a district court to find dismissal is warranted. However, courts must consider and balance all six Poulis factors before dismissing a case with prejudice, and all doubts must be resolved in favor of an adjudication on the merits.

***Bankruptcy Law > Practice & Proceedings > Appeals > Procedures***

[HN4] Dismissal typically occurs in cases showing consistently dilatory conduct or the complete failure to take any steps other than the mere filing of a notice of appeal.

***Bankruptcy Law > Practice & Proceedings > Appeals > Procedures***

[HN5] A client's lack of responsibility for its counsel's dilatory conduct is not dispositive on a motion to dismiss for failure to prosecute, because a client cannot always avoid the consequences of the acts or omissions of its counsel.

***Bankruptcy Law > Practice & Proceedings > Appeals > Procedures***

[HN6] Prejudice for the purpose of the Poulis factors does not mean irreparable harm. Rather, the burden imposed by impeding the opposing party's ability to prepare a meaningful litigation strategy has been held to be sufficiently prejudicial.

***Bankruptcy Law > Practice & Proceedings > Appeals > Procedures***

[HN7] The third Poulis factor considers the appellant's history of dilatoriness.

***Bankruptcy Law > Practice & Proceedings > Appeals > Procedures***

[HN8] Either of these violations--failing to comply with the Bankruptcy Rules for filing a brief within 15 days of the docketing of his appeal or providing for the transcript of the bankruptcy court proceedings--is grounds for a dismissal under Fed. R. Bankr. P. 8001.

***Bankruptcy Law > Practice & Proceedings > Appeals > Procedures***

[HN9] The fourth Poulis factor considers whether the conduct of the appellant or of the appellant's attorney was willful or in bad faith.

***Bankruptcy Law > Practice & Proceedings > Appeals > Procedures***

[HN10] The fifth Poulis factor assesses the effectiveness of sanctions other than dismissal.

***Bankruptcy Law > Practice & Proceedings > Appeals > Procedures***

[HN11] The sixth Poulis factor considers the meritoriousness of the appellant's claim. Ordinarily, a claim, or defense, will be deemed meritorious when the allegations of the motion, if established, would support recovery by plaintiff or would constitute a complete defense.

***Bankruptcy Law > Practice & Proceedings > Adversary Proceedings > Judgments & Remedies***

***Bankruptcy Law > Practice & Proceedings > Appeals > Standards of Review > General Overview***

***Civil Procedure > Summary Judgment > Standards > General Overview***

For internal use only