

sanctions order. Additionally, the ineffectiveness of the Court's prior orders setting deadlines for North Shore to file its appellant's brief, as well as North Shore's failure to respond to Carroll's motions to dismiss gives the Court reason to doubt the effectiveness of such sanctions.

North Shore has demonstrated little urgency in litigating its appeal. In addition to not filing a timely brief, it has elected not to file an opposition to Carroll's motions to dismiss. As such, the Court doubts the effectiveness of alternative sanctions. *Cf. Richardson*, 189 Fed. Appx. 93, at \*98 (finding dismissal inappropriate where appellant requested two extensions and filed his brief prior to the District Court's order of dismissal). Based on North Shore's absence thus far it is not evident that alternative sanctions will prompt it to take action in prosecuting this appeal. [\*16] Thus, the ineffectiveness of alternative sanctions weighs in favor of dismissal.

#### 6. Merit of North Shore's Appeal

[HN11] The sixth *Poullis* factor considers the meritoriousness of the appellant's claim. 747 F.2d at 868. "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." *Buccolo*, 308 Fed. Appx. 574, at n.1 (quoting *Poullis*, 747 F.2d at 869-70). In this appeal, North Shore challenges the Bankruptcy Division's grant of summary judgment to Carroll in the amount of \$115,140. North Shore also challenges the Bankruptcy Division's decision to deny its motion for reconsideration of the summary judgment.

#### a. Summary Judgment

[HN12] In reviewing a determination of a bankruptcy court's grant of summary judgment, a reviewing court subjects the bankruptcy court's "legal determinations to plenary review, reviewing its factual findings for clear error, and considering its exercise of discretion for abuse thereof." *In re Atamian*, 300 Fed. Appx. 175, 176 (3d Cir. 2008)(citations omitted).

A bankruptcy court may grant summary judgment if "the pleadings, the discovery and disclosure [\*17] materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law." FED. R. Civ. P. 56(c) (hereafter referred to as "Rule 56(c)"); *see also Hersh v. Allen Products Co.*, 789 F.2d 230, 232 (3d Cir. 1986).

[HN13] The movant has the initial burden of showing that there is no genuine issue of material fact. *Gans v. Mundy*, 762 F.2d 338, 342 (3d Cir. 1985). Once the initial burden is met it shifts to the non-moving party to establish specific facts showing there is a genuine issue for trial. *Id.* The non-moving party "may not rest upon mere allegations, general denials, or ... vague statements ... ." *Quiroga v. Hasbro, Inc.*, 934 F.2d 497, 500 (3d Cir. 1991). "[T]here is no issue for trial unless there is sufficient evidence favoring the non-moving party for a jury to return a verdict for that party." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 249, 106 S. Ct. 2505, 91 L. Ed. 2d 202 (1986).

[HN14] "[A]t the summary judgment stage the judge's function is not himself to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine

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