

supported by the law. See *id.* As such, the bankruptcy court did not err in refusing to reconsider on that basis.

Upon review of the Bankruptcy Division's summary judgment and order denying reconsideration, the Court finds that the likelihood that North Shore could successfully challenge the bankruptcy court's exercise of its broad discretion as to such matters is minimal. Thus, the final *Poulis* factor weighs in favor of dismissal. Cf. *Buccolo*, 308 Fed. Appx. 574, at n.1 ([HN28] "[a] claim ... will be deemed meritorious when the allegations ... if established [], would support recovery by" the claimant) (internal citations omitted) (first alteration in the original).

IV. CONCLUSION

Of the six *Poulis* factors, five weigh in favor of dismissal and one weighs against dismissal. The Court takes into account the possibility that North Shore's counsel bears [*29] some of the responsibility for its failure to follow the Court's scheduling order. Nonetheless, on balance, the *Poulis* factors demonstrate that dismissal of this appeal is an appropriate sanction for North Shore's failure to file its appellant's brief, or otherwise comply with this Court's scheduling orders. See *In re Buccolo*, 308 Fed. Appx. 574, 576 (3d Cir. 2009)(finding that "even if the consideration of the merits of [the appellant's] claim or defense does not tip the scales for or against dismissal, it cannot be said that the District Court abused its discretion in concluding that *on balance*, dismissal was warranted.")(emphasis added); *In re E Toys Inc.*, 263 Fed. Appx. 235, 238 (3d Cir. 2008) (affirming the district court's ruling that the *Poulis* factors favored dismissal of a bankruptcy appeal as a sanction for the appellant's "repeated failures to adhere to ordered briefing deadlines").

For the reasons discussed above, the Court will grant Carroll's motion to dismiss for failure to prosecute. An appropriate order follows.

**JULITO A. FRANCIS, Petitioner v. DEBRA L. WRIGHT-
FRANCIS, Respondent**

Family No. ST-10-DI-226

**Superior Court of the Virgin Islands, Division of St. Thomas
and St. John**

2014 V.I. LEXIS 45; 61 V.I. 13

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