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**\*\*E-filed 12/28/11\*\***

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

IN RE DEMAS WAI YAN,  
Debtor.

No. C 11-3071 RS

Bankruptcy No. 04-33526 TEC  
Adversary Proceeding No. 10-3152 TEC

DEMAYAN,  
Appellant,  
v.

**ORDER AFFIRMING SANCTIONS  
AWARD OF BANKRUPTCY COURT**

TONY FU,  
Appellee.

Demas Yan appeals a decision of the Bankruptcy Court imposing \$3000 in sanctions against him for filing and pursuing a frivolous motion that sought reconsideration of the dismissal of his cross-complaint, with leave to amend. Yan contends he did not act with an “improper purpose” in seeking reconsideration, because he was only attempting to avoid the necessity of an appeal.<sup>1</sup>

<sup>1</sup> Upon denial of reconsideration, Yan appealed the underlying dismissal of his cross-complaint. That appeal was decided against Yan on December 28, 2011, Case No. C 11-1814 RS.

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Although seeking relief from the trial court prior to pursuing an appeal is appropriate in limited circumstances, and is sometimes even a prerequisite to appellate review, that does not excuse compliance with the rules applicable to motions for reconsideration. The judicial efficiency that Yan contends would result from avoiding in some instances the necessity of appeal would pale in comparison to the burdens imposed on trial courts in having to rule on every motion twice, were the limits on seeking reconsideration not observed.

Yan has shown no error in the bankruptcy court’s assessment that the underlying motion merely repeated his prior arguments, without any cognizable basis for seeking reconsideration. Yan’s insistence that he acted in subjective good faith is insufficient to undermine the bankruptcy court’s conclusion that the motion was frivolous and sanctionable. As Yan has not otherwise shown any abuse of discretion in the sanctions award, the order of the bankruptcy court is affirmed.

IT IS SO ORDERED.

Dated: 12/28/11

  
RICHARD SEEBORG  
UNITED STATES DISTRICT JUDGE

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**THIS IS TO CERTIFY THAT A HARD COPY OF THIS DOCUMENT WAS MAILED TO:**

Tony Fu  
5813 Geary Blvd.  
PMB 188  
San Francisco, CA 94121

Demas Wai Yan  
595 Market St No. 1350  
San Francisco, CA 94105

DATED: 12/28/11

/s/ Chambers Staff  
Chambers of Judge Richard Seeborg