

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

SHETTY,  
Appellant,  
v.  
RINCON,  
Appellee.

Case No. 17-CV-01464-LHK

**ORDER DIRECTING APPELLEE  
RINCON TO SHOW CAUSE WHY  
REQUESTED RELIEF SHOULD NOT  
BE GRANTED AND DIRECTING  
APPELLANT TO SERVE OPENING  
BRIEF ON APPELLEE RINCON**

Re: Dkt. No. 11

On March 17, 2017, Appellant Niki-Alexander Shetty filed a notice of appeal of a bankruptcy court order. ECF No. 1. Appellant appears to have served a copy of his notice of appeal on The Bank of New York Mellon, but not on Appellee Jose Rincon. On April 11, 2017, the bankruptcy record was lodged with the Court. ECF No. 4. On July 7, 2017, the clerk of the United States Bankruptcy Court certified that the record on appeal is complete. ECF No. 5. On July 10, 2017, Appellant filed a notice in which he claimed that “the transcript designated by the appellant on appeal has not yet been transmitted or filed in the United States District court and thus the appellate record remains incomplete.” ECF No. 6. On July 20, 2017, the Clerk issued a

1 notice of briefing setting a briefing schedule for the appeal. ECF No. 7. The Clerk mailed a copy  
2 of the notice of briefing to Appellee Jose Rincon. ECF No. 7-1.

3 On September 19, 2017, Appellant filed an application to augment the record on appeal  
4 and attached the portion of the transcript of the bankruptcy proceeding that he claimed was  
5 missing from the record previously lodged with the Court. ECF No. 9. The Court ordered that the  
6 transcript be considered a part of the record on appeal. ECF No. 11.

7 The Court also set the following briefing schedule: Appellant's principal brief was due by  
8 October 19, 2017. Appellee's response brief was due by November 20, 2017. Appellant's reply  
9 brief was due by December 4, 2017. *Id.* The Clerk mailed a copy of the Court's September 19,  
10 2017 order to Appellee Rincon. ECF No. 11-2.

11 Appellant filed his opening brief on October 20, 2017. ECF No. 12. Appellant served a  
12 copy of his opening brief on BNYM, but not on Appellee Rincon. To the extent that Appellant  
13 intends to maintain this appeal against Appellee Rincon, Appellant is **HEREBY ORDERED** to  
14 serve a copy of his opening brief on Appellee Rincon and to file a certificate of service by  
15 December 7, 2017.

16 It is now December 4, and Appellee Rincon has failed to file a response brief, perhaps  
17 because he does not appear to have received a copy of Appellant's opening brief. The Court  
18 hereby **ORDERS** Appellee Rincon to show cause why the relief requested in this appeal should  
19 not be granted. Appellee has until December 15, 2017, to file a written response to this Order to  
20 Show Cause. A hearing on this Order to Show Cause is hereby set for December 21, 2017, at 1:30  
21 p.m.

22 Appellee's failure to respond to this Order will result in the Court's evaluation of the  
23 appeal without a response from Appellee.

24 **IT IS SO ORDERED.**

25  
26 Dated: December 4, 2017

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

*Lucy H. Koh*

---

LUCY H. KOH  
United States District Judge