

JUL 7 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: YAN SUI,

Debtor,

YAN SUI,

Appellant,

v.

RICHARD ALAN MARSHACK, Chapter  
7 Trustee; et al.,

Appellees.

No. 13-60020

BAP No. 12-1408

MEMORANDUM\*

Appeal from the Ninth Circuit  
Bankruptcy Appellate Panel  
Kirscher, Pappas, and Dunn, Bankruptcy Judges, Presiding

Submitted June 25, 2014\*\*

Before: HAWKINS, TALLMAN, and NGUYEN, Circuit Judges.

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Yan Sui appeals pro se from the Bankruptcy Appellate Panel's ("BAP") dismissal as moot of Sui's appeal from the bankruptcy court's order granting the bankruptcy trustee's motion for approval of the settlement of four state court actions. We have jurisdiction under 28 U.S.C. § 158(d). We review de novo the BAP's mootness determination, *Nat'l Mass Media Telecomm. Sys., Inc. v. Stanley* (*In re Nat'l Mass Media Telecomm. Sys., Inc.*), 152 F.3d 1178, 1180 (9th Cir. 1998), and we affirm.

The BAP properly dismissed Sui's appeal as moot because the settlement agreement had been consummated and most of the underlying state court lawsuits had been dismissed with prejudice, rendering it inequitable to consider the merits of Sui's appeal. *See Motor Vehicle Cas. Co. v. Thorpe Insulation Co.* (*In re Thorpe Insulation Co.*), 677 F.3d 869, 880-81 (9th Cir. 2012) (discussing equitable mootness doctrine).

Because Sui's appeal is moot, we do not consider his arguments on appeal addressing the underlying merits.

We lack jurisdiction to consider the BAP's orders denying Sui's emergency motion for a stay pending appeal and motion for reconsideration because Sui failed to file a timely notice of appeal from those orders. *See Fed. R. App. P.* 4(a)(1), 6(b).

Sui's request for judicial notice, filed on July 19, 2013, is granted.

The trustee's request to supplement the record on appeal and request for judicial notice, filed on September 11, 2013, is granted.

**AFFIRMED.**