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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

LAUREN KILLIPS,

Plaintiff,

v.

MT. TAM LASER AND SKIN CARE
CORPORATION et al.,

Defendants and Appellants;

LAURENCE ENGLER WOLF,

Defendant and Respondent.

A135689

(Marin County
Super. Ct. No. CIV 1101953)

The appeal in this medical malpractice action is from an order disqualifying the attorney representing some but not all of the defendants. On October 5, 2012, defendants Mt. Tam Laser and Skin Care Corporation, Karol Jan Meier and Sandi Selig-Farney (the appealing defendants) notified this court that a settlement had been reached in the underlying action but indicated their intention to continue to pursue their appeal from the disqualification order. On October 22, 2012, defendant Laurence Engler Wolf notified this court that, pursuant to the settlement, the action against all parties had been dismissed with prejudice on October 9, 2012. Wolf has requested dismissal of the appeal. We deem the request to be a motion to dismiss the appeal as moot.

The appealing defendants oppose the request. They confirm that the complaint has been dismissed but maintain that the settlement and dismissal does not moot their appeal because the disqualification order is being used in other litigation as a basis to deny insurance coverage for the fees incurred and to assert legal malpractice, making the propriety of the disqualification order an issue of continuing significance.

We take judicial notice of the dismissal order and the other documents filed by the appealing defendants and Wolf on November 6, 2012 and November 13, 2012, respectively. Having reviewed the documents and the parties' arguments, we shall dismiss the appeal as moot.

An appeal should be dismissed as moot when an event occurs during pendency of the appeal that renders it impossible for the appellate court to grant appellant " 'any effectual relief.' " (*Eye Dog Foundation v. State Board of Guide Dogs for the Blind* (1967) 67 Cal.2d 536, 541.) Reversal of the disqualification order would provide the appealing defendants with no effectual relief after the case has been dismissed and all need for legal representation in this case has ended. The appealing defendants are concerned about possible collateral consequences in other litigation but we do not anticipate that the disqualification order will have collateral estoppel effect. We recognize that an order disqualifying an attorney may be given collateral estoppel effect if the order is not appealed and the trial court's uncontested ruling becomes final. (*Reich v. Club Universe* (1981) 125 Cal.App.3d 965, 969.) The situation is different here, where the order was appealed and settlement of the action and the dismissal of the appeal as moot precludes a final determination of the correctness of the order. " " "Where a party to a judgment cannot obtain the decision of an appellate court because the matter determined against him is . . . moot, the judgment is not conclusive against him in a subsequent action on a different cause of action." ' ' " (*Chamberlin v. City of Palo Alto* (1986) 186 Cal.App.3d 181, 187.)

DISPOSITION

The appealing defendants' request for judicial notice filed on November 6, 2012 is granted. Wolf's request for judicial notice filed November 13, 2012 is granted. Wolf's request for dismissal filed on October 22, 2012 is deemed a motion to dismiss the

appeal as moot and is granted. The appeal is dismissed. The parties shall bear their own costs incurred on appeal.

Pollak, Acting P.J.

We concur:

Siggins, J.

Jenkins, J.