

Court of Appeals, State of Michigan

ORDER

John S McPhee v Robert Gittleman Law Firm

Docket No. 314452

LC No. 2012-125302-AA

Elizabeth L. Gleicher
Presiding Judge

Mark J. Cavanagh

Pat M. Donofrio
Judges

The Court orders that the motion to dismiss is DENIED because this appeal is not moot. An issue before this Court is moot if this Court cannot fashion a remedy. *Silich v Rongers*, 302 Mich App 137, 151-152; 840 NW2d 1 (2013). That the Michigan Appellate Compensation Commission (MCAC) entered a February 27, 2014 decision in apparent accordance with the circuit court's January 4, 2013 order appealed from does not render this appeal moot. Rather, if this Court ultimately concludes that the January 4, 2013 circuit court order should be vacated, it could grant meaningful relief that would either directly or implicitly require vacation of the February 27, 2014 MCAC decision. In this regard, we are aware of no authority supporting a conclusion that a higher appellate court loses authority to review a decision of a lower appellate court that has remanded to a still lower tribunal for further proceedings merely because the tribunal issues a new decision based on the decision of the lower appellate court.

However, we note that, contrary to appellant's assertion, the MCAC did not violate MCR 7.208(A) by entering its February 27, 2014 decision because that decision did not purport to set aside or amend the January 4, 2013 circuit court order appealed to this Court. Further, it is not appropriate for appellant to ask this Court to grant the affirmative relief of vacating the February 27, 2014 MCAC decision as part of its answer to the motion to dismiss.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

MAY 20 2014

Date

Chief Clerk