

SEP 13 2019

Sherri A. Carter, Executive Officer/Clerk
By K. Mason Deputy

1 SUPERIOR COURT OF CALIFORNIA
2 COUNTY OF LOS ANGELES – CENTRAL DISTRICT
3 DEPARTMENT 53

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5
6 STEPHANIE CLIFFORD;

7 Plaintiff,

8 vs.

9 DONALD J. TRUMP, et al.;

10 Defendants.

Case No.: BC696568

Hearing Date: September 13, 2019

Time: 8:30 a.m.

11 ~~TENTATIVE~~ ORDER RE:

12 ORDER TO SHOW CAUSE RE:
13 DISMISSAL AS A RESULT OF THE
14 UNITED STATES DISTRICT COURT'S
15 MARCH 7, 2019 ORDER

16 MOVING PARTY: not applicable

17 RESPONDING PARTIES: plaintiff Stephanie Clifford and defendant Donald J. Trump

18 The court considered the parties' responses and plaintiff's reply to the court's Order to
19 Show Cause.

20
21 **BACKGROUND**

22 Plaintiff Stephanie Clifford ("Plaintiff") filed this action on March 6, 2018, against
23 defendants Donald J. Trump a.k.a. David Dennison ("Defendant") and Essential Consultants,
24 LLC ("EC"), asserting one cause of action for declaratory relief. Plaintiff sought a declaratory
25 judgment that the Confidential Agreement and Mutual Release; Assignment of Copyright and
26 Non-Disparagement Agreement (the "Agreement") entered into by Plaintiff was void, invalid, or
27 unenforceable.
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1 EC removed this action to the United States District Court for the Central District of
2 California on March 16, 2018. On March 26, 2018, Plaintiff filed the operative First Amended
3 Complaint (“FAC”), which added a cause of action for defamation against defendant Michael
4 Cohen. On March 7, 2019, the District Court issued an order granting Defendant and EC’s
5 motions to dismiss for lack of subject matter jurisdiction and remanding the case back to the Los
6 Angeles Superior Court (the “Remand Order”). In the Remand Order, the District Court found
7 that Plaintiff’s claims for declaratory relief (under federal and California law) were moot because
8 there was no longer an active case or controversy. (Remand Order, pp. 5-9.) The District Court
9 further noted that, in the context of its order to remand this case to the Los Angeles Superior
10 Court, “‘remand’ means that [the District] Court divests itself of jurisdiction and returns this case
11 to the Los Angeles Superior Court, where Plaintiff first filed the lawsuit.” (Remand Order, p. 14,
12 fn. 5.) The District Court then clarified that “[t]his does not mean that the litigation continues in
13 state court.” (Remand Order, p. 14, fn. 5.)

14 On May 23, 2019, this court issued an Order to Show Cause why this action should not
15 be dismissed as a result of the United States District Court’s March 7, 2019 order (the “Order to
16 Show Cause”).

17 On June 13, 2019, Plaintiff filed a Request for Dismissal, dismissing defendants EC and
18 Michael Cohen from this action. The dismissal of those two defendants was entered on July 10,
19 2019.

20 **DISCUSSION**

21 In response to the Order to Show Cause, Plaintiff argues that this case is not moot and
22 should not be dismissed because there remains an outstanding collateral issue regarding
23 Plaintiff’s entitlement to attorneys’ fees and costs. Defendant counters that this action should be
24 dismissed as moot, and that Plaintiff’s request for attorneys’ fees is without merit in any event.

25 As set forth in the Remand Order, the District Court has already determined that this case
26 is moot. “[A] moot case is one in which there may have been an actual or ripe controversy at the
27 outset, but due to intervening events, the case has lost that essential character and, thus, no longer
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1 presents a viable context in which the court can grant effectual relief to resolve the matter.”
2 (*Association of Irrigated Residents v. Department of Conservation* (2017) 11 Cal.App.5th 1202,
3 1222.) “When events render a case moot, the court, whether trial or appellate, should generally
4 dismiss it.” (*Wilson & Wilson v. City Council of Redwood City* (2011) 191 Cal.App.4th 1559,
5 1574.)

6 Plaintiff cites no controlling authority for the proposition that a party’s claim that he or
7 she is entitled to recover attorney’s fees or costs, which Plaintiff herself characterizes as a
8 “collateral issue,” constitutes an “actual controversy” for purposes of determining mootness of
9 an action. (*See National Ass’n of Wine Bottlers v. Paul* (1969) 268 Cal.App.2d 741, 746 [“the
10 judicial function is the determination of actual controversies between parties and the court may
11 not concern itself with settling abstract questions of law which may never be involved in an
12 actual dispute regarding property or other rights”].) Thus, because this case is moot, the court
13 finds that it is appropriate to dismiss it.

14 But the court notes that dismissal does not divest the trial court of jurisdiction to consider
15 “matters ancillary to the underlying action,” such as a motion for attorney’s fees. (*Maria P. v.*
16 *Riles* (1987) 43 Cal.3d 1281, 1290 [also noting that a federal court retains jurisdiction to address
17 the issue of attorney fees for a prevailing party after a dismissal for mootness]; *see also P R*
18 *Burke Corp. v. Victor Valley Wastewater Reclamation Authority* (2002) 98 Cal.App.4th 1047,
19 1052 [an attorney’s fees motion “almost always is” filed after judgment has already been entered
20 because, “before the entry of judgment, there is technically no prevailing party”]; Cal. Rules of
21 Ct., rule 3.1702, subd. (b)(1) [“A notice of motion to claim attorney’s fees for services up to and
22 including the rendition of judgment in the trial court . . . must be served and filed within the time
23 for filing a notice of appeal . . .”]; Code Civ. Proc., § 581d [a dismissal order constitutes a
24 judgment].) Therefore, an order of dismissal will not prevent Plaintiff from filing a motion for
25 an award of attorney’s fees pursuant to statutorily authorized procedures.

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1 **ORDER**

2 For the reasons set forth above, the court orders that this action is dismissed as moot.

3 The court orders defendant Donald J. Trump to give notice of this ruling.

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5 IT IS SO ORDERED.

6 DATED: September 13, 2019

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10 Robert B. Broadbelt III
11 Judge of the Superior Court

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