



2009 Decisions

Opinions of the United
States Court of Appeals
for the Third Circuit

10-8-2009

Damon Jones v. Lori Lapina

Follow this and additional works at: https://digitalcommons.law.villanova.edu/thirdcircuit_2009

Recommended Citation

"Damon Jones v. Lori Lapina" (2009). *2009 Decisions*. 498.
https://digitalcommons.law.villanova.edu/thirdcircuit_2009/498

This decision is brought to you for free and open access by the Opinions of the United States Court of Appeals for the Third Circuit at Villanova University Charles Widger School of Law Digital Repository. It has been accepted for inclusion in 2009 Decisions by an authorized administrator of Villanova University Charles Widger School of Law Digital Repository.

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. Nos. 08-3452 & 08-3893

DAMON JONES,
Appellant

VS.

LORI LAPINA, P.A.; STANLEY FALOR, M.D.; JOHN OR JANE DOE

(W.D. Pa. Civ. No. 06-cv-01209)

Present: FISHER, JORDAN and VAN ANTWERPEN, Circuit Judges

Submitted are:

- (1) Appellant's motion to quash untimely brief;
 - (2) Appellees' response to motion quash;
 - (3) Appellees' addendum to response;
 - (4) Appellant's reply to Appellees' response;
 - (5) Appellees' supplemental response to motion to quash; and
 - (6) Appellees' addendum to supplemental response
- in the above-captioned case.

Respectfully,

Clerk

MMW/JAV/clw

JUDGMENT ORDER

The foregoing has been considered by the Court and is ruled upon as follows. We note

DAMON JONES,
Appellant

VS.

LORI LAPINA, P.A.; STANLEY FALOR, M.D.; JOHN OR JANE DOE
C.A. Nos. **08-3452 & 08-3893**

Page 2

first that although the District Court's first July 8, 2008 order denied Jones' first motion to alter or amend, its second July 8, 2008 order gave Jones an opportunity to respond to the Defendants-Appellees' motion to dismiss and the Magistrate Judge's Report and Recommendation. As that is essentially the relief Jones sought in his first motion to alter or amend, Jones' appeal from the first order is moot. See, e.g., In re Orthopedic Bone Screw Prod. Liab. Litig., 94 F.3d 110, 111 (3d Cir. 1996). Moreover, the order effectively reopened the case and, as a result, there was no longer a final, appealable order in the case. See Firestone Tire & Rubber Co. v. Risjord, 449 U.S. 368, 373 (1980). Accordingly, we dismiss the appeal docketed at 08-3452.

With regard to the appeal docketed at 08-3893, this matter is remanded to the District Court to consider the Defendants-Appellees' motion to dismiss in light of Jones' response. The District Court was incorrect in its conclusion that it lacked jurisdiction because of Jones' first notice of appeal. See Mondrow v. Fountain House, 867 F.2d 798, 800 (3d Cir. 1989). Jones' motion to quash Appellees' brief is denied.

By the Court,

/s/ Franklin S. Van Antwerpen
Circuit Judge

Dated: October 8, 2009
CLW/cc: Mr. Damon Jones
Alan S. Gold, Esq.