

Circuit Court for Baltimore City
Case No. 24-C-15-002090

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2096

September Term, 2016

ESTATE OF KIMBERLY WATERS

v.

RHONDA I. FRAMM

Woodward, C.J.,
Leahy,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: June 14, 2018

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Kimberly Waters – and later her estate (“the Estate” or appellant) – retained a succession of three attorneys to represent her in tort litigation in the Circuit Court for Baltimore City concerning a car accident in which she was involved as a plaintiff.¹ Rhonda Framm, appellee, was the second attorney, representing Waters from November 17, 2015, through August 24, 2016. Framm worked on the case and prepared for settlement negotiations, putting in 73.45 hours, according to her records. On August 24, 2016, however, Framm was disbarred. *See Attorney Grievance Comm’n v. Framm*, 449 Md. 620 (2016). The Estate then retained Alan Johnson for the settlement conference, at which time the Estate agreed to settle the case for \$15,000.

All three attorneys filed liens against the Estate pursuant to Maryland Code (1989, 2010 Repl. Vol.), Business Occupations & Professions (“BOP”), § 10-501. On November 7, 2016, the circuit court conducted a lien adjudication hearing. On November 14th, the court ordered that the settlement amount be disbursed as follows: \$8,078.27 to Framm for her expenses and the value of legal services; \$150 to Johnson for the value of legal services, and \$363.31 to Schulman, Hirschfield & Gilden, P.A. (“Schulman” – the first attorneys to represent Waters) for the value of legal services. Accordingly, the Estate received \$6,408.42 of the settlement amount. The Estate timely noted this appeal, challenging the adjudication of the liens. In its briefs, the Estate makes clear that it is not challenging the amounts paid to Johnson or Schulman or that Framm receive some

¹ The underlying tort case is *Saiedy v. Williams*. Waters was a passenger in one of the vehicles. She passed away on May 23, 2016.

compensation. Rather, the Estate contends that Framm’s recovery of more than 50% of the value of the settlement amount was an abuse of discretion.

Prior to a consideration of the merits, however, we must consider Framm’s motion to dismiss the appeal. She contends that the case is moot because the Estate failed to post a supersedeas bond, failed to obtain a stay of the disbursement of the settlement funds, and also accepted the benefits of the order. Furthermore, Framm argues, the Estate’s brief and record extract fail to comply with several provisions of the rules of appellate procedure. Framm asserts that there is no relief that this Court can provide because the funds have been disbursed. For any or all of these reasons, Framm urges this Court to dismiss the appeal.

This Court has held: “An appeal must be dismissed ‘if the appellant 1) accepts a benefit from or 2) acquiesces in or 3) recognizes the validity of the judgment or decree or 4) acts in a manner inconsistent with the maintenance of the appeal.’” *Mona v. Mona Elec. Grp., Inc.*, 176 Md. App. 672, 723 (2007) (emphasis omitted) (quoting *First Md. Leasecorp v. Cherry Hill Sand & Gravel Co., Inc.*, 51 Md. App. 528, 534-35 (1982)). Stated differently, “[t]he ‘right to appeal may be lost by acquiescence in, or recognition of, the validity of the decision below from which the appeal is taken or by otherwise taking a position which is inconsistent with the right to appeal.’” *VEI Catonsville, LLC v. Einbinder Props., LLC*, 212 Md. App. 286, 293 (2013) (quoting *Rocks v. Brosius*, 241 Md. 612, 630 (1966)).

The Estate contends that the exception to the acquiescence rule applies in this case. That is, “[w]hen an appellant accepts only that which the appellee concedes, or is bound

to concede, to be due him under the judgment or decree, he is not barred from prosecution of an appeal which involves only his right to a further recovery. Acceptance of part of the award in such circumstances is not inconsistent with the appellant’s claim that the award should have been larger.” *Cochran v. Griffith Energy Serv., Inc.*, 191 Md. App. 625, 641 (2010) (quoting *Dietz v. Dietz*, 351 Md. 683, 696 (1998)). Accordingly, the Estate concedes that Framm should receive some compensation for her lien claim, but it believes that she should have received a lesser amount.

Subsequent to the filing of its notice of appeal, however, the Estate filed documents with the Orphans Court for Baltimore City that contradict its position in appealing the lien adjudication. For example, in a line filed on March 8, 2017, the Estate stated that the lien adjudication had been “settled” by the circuit court’s November 11, 2016 order. In opposing Framm’s request for a stay, filed on April 5, 2017, the Estate asserted that the “matter of the amount due to . . . Framm has already been adjudicated[.]” The Estate also informed the Orphans Court that Framm and the Estate had received payment from the settlement fund. Concluding this document, the Estate claimed that Framm “has been paid for attorney’s fees from the settlement proceeds per a court order and that claim has been satisfied.” Furthermore, in a January 13, 2017 order of the circuit court, the court struck Framm as an interested party because the underlying lien had been satisfied. At no point in subsequent filings did the Estate note its position that Framm should have received a lesser amount or questioned the judgment in any way.

The Estate’s subsequent assertions in the Orphans Court that Framm’s lien had been adjudicated and her claims for attorney’s fees had been settled amount to a recognition of

the validity of the circuit court’s decision. *See VEI*, 212 Md. App. at 294. Accordingly, we agree with Framm that the Estate has taken actions inconsistent with appealing the judgment, and thus we dismiss the appeal.²

**APPEAL DISMISSED. COSTS TO BE PAID
BY APPELLANT.**

² Framm provided alternative reasons for dismissing the appeal. Given our holding on one ground, we find it unnecessary to analyze the others.