Case No. S_____

In the

Supreme Court

of the

State of California

MARIO DELIS,
Plaintiff and Appellant,

v.

JEFFREY D. THORN, et al,
Defendants and Respondents.

REVIEW OF A DECISION FROM THE CALIFORNIA COURT OF APPEAL
FIFTH APPELLATE DISTRICT, CASE NO. F084879
KERN COUNTY SUPERIOR COURT · HONORABLE THOMAS S. CLARK
CASE NO. BCV-21-102152

PETITION FOR REVIEW

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STATEMENT OF ISSUES

This appeal arises from an order awarding fees to a plaintiff who successfully moved to strike SLAPP counterclaims; the order was held nonappealable.

1. Must an order always require the payment of money or performance of an act to be an appealable collateral order?[1]
2. Even if so, does appealability turn on which party (appellant or respondent) was directed to pay money or perform an act?[2]

Here, the Fifth District Court of Appeals answered "yes" to both questions; previously, a different panel of that district answered "no."[3] Other intermediate-court decisions over the last half-century have been similarly inconsistent.

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[1] *But see, e.g.*, *In re Marriage of Skelley*, 18 Cal. 3d 365, 368–69 (1976) (holding that an order reducing spousal support was an appealable collateral order); *Meehan v. Hopps*, 45 Cal. 2d 213, 216–17 (1955) (holding that an order denying a motion to disqualify counsel is an appealable collateral order).

[2] *But see Skelley*, 18 Cal. 3d at 368–69 (holding that an order was an appealable collateral order even though the respondent was the one ordered to pay money).

[3] *See Spencer v. Spencer*, 252 Cal. App. 2d 683, 684 (5th Dist. 1967). Even then, 57 years ago, the alleged requirement that an otherwise collateral order "must also direct the payment of money by appellant or the performance of an act by or against him" had become "the subject of some confusion in the appellate court decisions." *Id.* at 689. The confusion remains.

I. BACKGROUND

After Petitioner Mario Delis ("Delis") sued his former business partner Jeffrey Thorn and Thorn's companies (collectively "Thorn"), Thorn filed a SLAPP cross-complaint. Delis successfully moved to strike Respondents' SLAPP suit under the California anti-SLAPP statute and then moved for his mandatory attorney fees.[4] The Superior Court then limited Delis' attorney fees to only the part of the initial motion, a fraction of reasonable attorney fees Delis incurred.[5]

Delis appealed the Court's partial award to the Fifth District. Though Thorn initially appealed the anti-SLAPP ruling, he soon dismissed the appeal.[6] The Court of Appeals declined to consider Delis' appeal of the anti-SLAPP fees on the merits. It held that an order awarding reduced attorney fees to a prevailing anti-SLAPP movant was not a collateral order.[7] The Appellate Court, applying *Sjoberg v. Hastorf*,[8] (establishing the factors that make an order appealable). stating that "[b]ecause the order in this case does not involve 'the payment of money by appellant. . .,' it is not appealable as a collateral order."[9] The Court of Appeals said that the anti-SLAPP movant should wait for a final

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4 Court of Appeals Opinion (Ex. A) at 2.

5 *See* Ex. A at 2.

6 *See* Ex. A at 5, n. 6.

7 *See* Ex. A at 4.

8 33 Cal. 2d 116, 119 (1948).

9 Ex. A at 4.

judgment on the entire matter.[10] But a final judgment may take years, effectively denying the appellant the protection of the anti-SLAPP statute's mandatory attorney fee provision.

II. GROUNDS FOR REVIEW

Since this Court's opinion in *Sjoberg v. Hastorf*,[11] the California Courts of Appeals' rulings about the payment-or-performance requirement in the collateral order doctrine have not been uniform.[12] Many courts have interpreted payment of money as a consideration but not a mandatory requirement under collateral order analysis. Other Courts have followed a rigid interpretation that the payment-or-performance element is mandatory, and no order can be collateral without satisfying it.

No petition for rehearing was filed challenging the Court of Appeal's December 26, 2023 decision, which became final on January 25, 2024. This Petition was timely filed before February 4, 2024.

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[10] *See* Ex. A at 6.

[11] *See Sjoberg*, 33 Cal. 2d at 119.

[12] This Court should grant the petition to review based on Cal. R. Ct. 8.500(b)(1) of the California Rules of Court since the Court's review is "necessary to secure uniformity of decision or to settle an important question of law." To "secure harmony and uniformity in the decisions" of the district courts, we ask this Court to determine whether payment or performance by the appellant is required for an otherwise collateral order to be appealable. *People v. Davis*, 147 Cal. 346, 348 (1905). As noted above (*see supra* n.3), intermediate courts have been in a state of "confusion" about this issue for nearly six decades. *See Spencer*, 252 Cal. App. 2d at 689.

III. DISCUSSION

A. The Supreme Court's opinions after *Sjoberg* have been unclear about which elements must be considered when analyzing appealability under the collateral order doctrine.

The Appellate Court's opinion relied mainly on the standard stated by this Court in *Sjoberg v. Hastorf*.[13] In *Sjoberg*, the Court stated that an order is appealable if it: (1) is collateral, (2) is final as to the collateral matter, and (3) "direct[s] the payment of money by appellant or the performance of an act by or against him."[14] But in subsequent opinions, this Court has largely ignored the payment-or-performance requirement in its analysis. Instead, the Court has held that orders that do not direct payment or performance *by anyone* are still appealable as collateral orders.[15]

In *Meehan v. Hopps*, this Court ruled that the disqualification of counsel, without any requirement by the appellant to pay money or perform an act, is "unquestionably" an appealable collateral order.[16] Then, in 1976, the Court held in

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[13] *See* Ex. A at 4.

[14] *Davis*, 147 Cal. 346 at 348.

[15] *See, e.g.*, *Meehan*, 45 Cal. 2d at 218; *McClearen v. Super. Court of Tulare Cnty.*, 45 Cal. 2d 852, 855 (1955); *Spencer*, 252 Cal. App. 2d at 690 (holding that an order against a third party to an action on a collateral issue is "appealable even though it may not "technically" direct the performance of an act by or against appellant").

[16] 45 Cal. 2d 213, 216-17 (1955).

Marriage of Skelley[17] that an order is collateral when it is "an interlocutory order collateral to the main issue, dispositive of the rights of the parties in relation to the collateral matter, and directing payment of money or performance of an act."[18] The Court's rule in *Skelley* seemed to reinject the payment-or-performance requirement into the analysis yet shifted the analysis from payment or performance of an act *by the appellant* to any order for payment or performance of an act *by anyone*.[19] The Court held that an order decreasing the amount due to the appellant was an appealable collateral order.[20]

Since then, the decisions of the appellate courts have been in disarray, with various courts issuing rulings in disparate directions.

B. The Court should review this petition because there is a split of authority in the appellate districts post-*Sjoberg* and *In re Marriage of Skelley* about the payment-or-performance requirement.

Since *Sjoberg*, a wide split of authority has emerged in the appellate districts. Delis' appeal was dismissed as a non-appealable order because it did not direct Delis, the appellant, to

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17 18 Cal. 3d 365 (1976).

18 *Skelley*, 18 Cal. 3d at 368.

19 This holding aligns with previous Supreme Court decisions. That includes the main case *Sjoberg* relied on, *Grant v. Super. Ct. of L.A.*, 106 Cal. 324, 326 (1895), which discussed payment "by any party, or enforceable against any party by execution" as a requirement for a collateral order.

20 *Skelley*, 18 Cal. 3d 365 at 368–70.

pay money.[21] The Fifth District relied heavily on the opinion in *Sjoberg*, in which the Court held that a collateral order was appealable only if the appellant was ordered to pay money or perform.[22] Yet in *Marriage of Skelley,* where the order did not require the appellant to pay money and reduced the amount the appellant was owed — this Court found that to be an appealable collateral order. Which precedent controls?

In *Muller v. Fresno Cmty. Hosp. & Med. Ctr.*, the Second District Court of Appeals said that "the real test is whether the order is collateral and final as to the collateral matter, not whether the order has the effect of requiring payment of money or the performance of an act."[23] The *Muller* court reached that conclusion by analyzing this Court's opinions in *Meehan v. Hopps*,[24] *S. Pacific Co. v. Oppenheimer*,[25] and *Takehara v. H.C. Muddox Co.*[26] — noting that this Court did not include the payment or performance of an act requirement in its analysis. But the Fourth District Court of Appeals in *Longobardo v. Avco Corp.*, held that these cases must have created narrow exceptions instead, though it first acknowledged the split of authority.[27]

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[21] Ex. A at 4.

[22] *See Sjoberg*, 33 Cal. 2d at 119.

[23] 172 Cal. App. 4th 887, 903 (2d Dist. 2009).

[24] 45 Cal. 2d 213 (1955).

[25] 54 Cal. 2d 784 (1960).

[26] 8 Cal. 3d 168 (1972).

[27] 93 Cal. App. 5th 429, 433 (2023)

Even so, *Longobardo* held that a payment or performance of an act was mandatory for an order to be collateral.[28]

But in *Krikorian Premiere Theaters v. Westminster*,[29] the Fourth District had characterized the *Sjoberg* court's statement that payment of money was a requirement for the collateral order doctrine to apply as dictum.[30] The *Krikorian* court held that the payment element should be discounted from the analysis, since it conflicted with the holding of later Supreme Court decisions, such as *Marriage of Skelley*.[31] Several other courts have come to a similar conclusion.[32] Still, many other courts, such as the Court of Appeals here, have ruled that the collateral order doctrine applies *only* if the appellant is the one ordered to pay money or perform an act.[33]

Petitioner asks this Court to resolve the split in authority and hold that the collateral order doctrine does require the order

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[28] *Id.* at 434.

[29] 193 Cal. App. 4th 1075 (2011).

[30] *See id.* at 1084.

[31] *See id.* at 1084–85.

[32] *See also Henneberque v. City of Culver City,* 172 Cal. App. 3d 837, 841 n.3, (1985) (collecting cases); *see also Spencer,* 252 Cal. App. 2d 683 at 691; *see also In re Marriage of Garcia,* 13 Cal. App. 5th 1334, 1344 (2017) (finding that orders granting or denying alimony are appealable).

[33] *See* Ex. A at 4 (citing *Dr. V Prods., Inc. v. Rey*, 68 Cal. App. 5th 793, 799 (2021)); s*ee also e.g.*, *Sanchez v. Westlake Servs., LLC*, 73 Cal. App. 5th 1100, 1100 (2022); *Koshak v. Malek*, 200 Cal. App. 4th 1540, 1545 (2011).

to direct payment or performance of an act by the would-be appellant to be appealable.

C. To ensure even application of the law, this Court should hold that the collateral order doctrine has no stringent "appellant payment or performance" requirement.

The appellate courts' post-*Sjoberg* decisions have resulted in an unclear standard and forced litigants to file an interlocutory appeal and hope for the best. Treatises recommend both that the would-be appellant file an appeal to preserve its rights *and* that the respondent move to dismiss the same appeal[34] — while expressing hope that the "California Supreme Court will eventually resolve this decisional conflict."[35] This "appeal and hope" strategy requires litigants to waste judicial resources.

If litigants are forced to wait until a final judgment to appeal collateral orders, including those that do not require the appellant to pay or perform, irreparable damage may be done to the entire case. This Court recognized as much in *Meehan*.[36] This Court has also acknowledged that the legislature intended the anti-SLAPP statute to stop "meritless lawsuits [that] seek to

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[34] Appealable Judgments and Orders, Cal. Prac. Guide Civ. App. & Writs Ch. 2-B, 2:80a.

[35] *Id*.

[36] *See Meehan*, 45 Cal. 2d 213 at 218 ("[I]f Hopps must wait for a determination on appeal from the judgments of his right to exclude the attorneys from disclosing information they had formerly obtained, the damage to him which he now properly seeks to avoid would have been done").

deplete the defendant's energy and drain his or her resources."[37] When a movant is unjustly denied their attorneys' fees in moving to strike a SLAPP suit, that outcome rewards the strategic litigation that the Legislature sought to avoid in enacting the statute. Unless the award is appealable by the party seeking fees, that party will be saddled with the costs imposed by the SLAPP counterclaims until the entire litigation is resolved. That is precisely what happened here. Thorn filed SLAPP counterclaims to impose costs on Delis; the trial court improperly denied most of Delis' fee request; and the Court of Appeals held that this outcome was nonappealable, leaving Delis saddled with the fees Thorn imposed. Such results will make filing SLAPP counterclaims against underfinanced plaintiffs a strategically sound litigation decision for wealthy defendants.

The collateral order doctrine serves a critical need, especially considering how long lawsuits run. When a matter is collateral and the order final, there is no practical reason to force the aggrieved party to wait. As one opinion put it, the "real test is whether the order is collateral and final as to the collateral matter, not whether the order has the effect of requiring payment of money or the performance of an act."[38] Petitioner urges this Court to grant review of this legal issue and remove the payment-or-performance requirement of the collateral order doctrine.

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[37] *Varian Med. Sys., Inc. v. Delfino*, 35 Cal. 4th 180, 192 (2005) (internal quotation marks omitted).

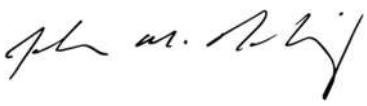
[38] *Muller v. Fresno Cmty. Hosp. & Med. Ctr.,* 172 Cal. App. 4th 887, 903 (2009).

IV. CONCLUSION

This Court should resolve the chaos in the lower courts by taking on the narrow issue of whether payment or performance of an act by the appellant is a mandatory element for the collateral order doctrine to apply. The current "appeal and hope" approach required for cautious litigants wishing to challenge collateral orders wastes judicial resources and creates different standards for litigants depending on the appellate district or even the composition of judges the litigant faces. To uphold the purpose of the anti-SLAPP statute and its legislative intent, this Court should find that payment is not required for a collateral order to be appealable. We urge the Supreme Court to bring clarity and uniformity to the collateral order doctrine.

Dated: February 2, 2024

Respectfully submitted,



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CERTIFICATE OF COMPLIANCE

Counsel of Record hereby certifies that under Rule 8.504(d) of the California Rules of Court, the enclosed Petition for Review is produced using 13-point or greater Roman type, including footnotes, and contains 2,313 words, which is less than the total words permitted by the rules of Court. Counsel relies on the word count of the computer program used to prepare this Petition.

Dated: February 2, 2024

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OPINION

Filed 12/26/23 Delis v. Thorn CA5

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIFTH APPELLATE DISTRICT

MARIO DELIS, Plaintiff and Appellant, v. JEFFREY D. THORN, et al., Defendants and Respondents.	F084879 (Super. Ct. No. BCV-21-102152) **OPINION**

APPEAL from an order of the Superior Court of Kern County. Thomas S. Clark, Judge.

Rushing McCarl, John M. Rushing, Ryan P. McCarl, and Davit Avagyan, for Plaintiff and Appellant.

Lynch and Lynch, Craig M. Lynch; Heller & Edwards and Lawrence E. Heller for Defendants and Respondents.

-ooOoo-

Mario Delis sued his business partner Jeffrey Thorn. Thorn, and businesses he owned,[1] cross-complained.

[1] For simplicity, we refer to respondents collectively as Thorn.

Delis filed an anti-SLAPP motion seeking to strike Thorn's cross-complaint. (Code Civ. Proc.,[2] § 425.16.) After Delis prevailed in part, he filed a separate motion for attorney fees. (*Ibid.*)

The trial court awarded Delis less attorney fees than Delis had requested, so he filed this appeal. Thorn subsequently moved[3] to dismiss the appeal, and this court issued an order deferring a ruling "pending consideration of the appeal on its merits."

After further consideration, we conclude the appeal is premature. Accordingly, this court lacks jurisdiction and we will dismiss the appeal in the disposition.

BACKGROUND

"Delis filed a complaint against … Thorn and several of Thorn's business entities alleging, among other things, that Delis and Thorn are equal partners in a … business but … Thorn has deprived Delis of his rightful share of that business."[4] Thorn filed a cross-complaint alleging five causes of action—four involving breaches of contract and one seeking declaratory relief.

Delis moved to strike all five of Thorn's claims pursuant to section 425.16. The trial court granted the motion in part, striking the four breach causes, but denied it as to declaratory relief.

After the ruling, Delis moved for attorney fees and costs. Although he sought more than $85,000, the trial court ultimately awarded only $15,500. Delis's original complaint, and Thorn's claim for declaratory relief, remained pending when this appeal was filed.

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[2] Undesignated statutory references are to the Code of Civil Procedure.

[3] Along with the motion, Thorn filed a request to judicially notice an unpublished decision from the Fourth District Court of Appeal. We deny the request in the disposition.

[4] This synopsis is borrowed from Delis's anti-SLAPP motion. Delis's original complaint is not in the record.

DISCUSSION

Thorn argues this appeal is from a "non-appealable" order and we should accordingly dismiss. Delis contends the order is collateral and thus appealable pursuant to the collateral order doctrine. Alternatively, he asserts " '[a]n appeal may be taken from an order awarding fees for a successful anti-SLAPP motion.' " Thorn has the better argument.

A. Governing Law – The Order is Not Appealable

"The existence of an appealable judgment is a jurisdictional prerequisite to an appeal. A reviewing court must raise the issue on its own initiative whenever a doubt exists as to whether the trial court has entered a final judgment or other order or judgment made appealable by … section 904.1." (*Jennings v. Marralle* (1994) 8 Cal.4th 121, 126.)

"The right to appeal in California is generally governed by the 'one final judgment' rule, under which most interlocutory orders are not appealable." (*In re Baycol Cases I & II* (2011) 51 Cal.4th 751, 754 (*Baycol*).) "Under the one final judgment rule, ' "an appeal may be taken only from the final judgment in an entire action." ' [Citation.] ' "The theory [behind the rule] is that piecemeal disposition and multiple appeals in a single action would be oppressive and costly, and that a review of intermediate rulings should await the final disposition of the case." ' " (*Id.* at p. 756.) "The one final judgment rule is 'a fundamental principle of appellate practice ….' " (*Ibid.*)

Section 904.1, which codifies the one final judgment rule, does not, however, authorize an immediate appeal from an order awarding attorney fees pursuant to section 425.16. Nor does any other statute. (See *Doe v. Luster* (2006) 145 Cal.App.4th 139, 144-150 (*Luster*) ["The plain meaning of the actual words used in section 425.16, subdivision (i)—'an order granting or denying a special motion to strike'—manifests the Legislature's intent to limit this exception to the one final judgment rule to the court's ruling on the special motion to strike itself, not to make related, but ancillary, rulings or orders separately appealable."]; *City of Colton v. Singletary* (2012) 206 Cal.App.4th 751,

781 (*Colton*) ["section 904.1 does not include an award of attorney's fees among the exception to the one final judgment rule."].) Put simply, it is not appealable by statute.

One exception to the one final judgment rule is the collateral order doctrine. An order is collateral and immediately appealable if it involves "some distinct issue in the case" and "direct[s] the payment of money *by appellant* or the performance of an act by or against him." (*Sjoberg v. Hastorf* (1948) 33 Cal.2d 116, 119 (*Sjoberg*), emphasis added.) Recently, the Second District Court of Appeal reiterated a "caution[] against an expansive interpretation of the collateral order doctrine." (*Dr. V Productions, Inc. v. Rey* (2021) 68 Cal.App.5th 793, 799 (*Dr. V*), quoting *Conservatorship of Rich* (1996) 46 Cal.App.4th 1233, 1235.)

We heed the caution against an expansive interpretation of the collateral order doctrine. Which orders are appealable and whether judicial resources are efficiently utilized are initially "question[s] for the Legislature …." (*Varian Medical Systems, Inc. v. Delfino* (2005) 35 Cal.4th 180, 195-196.) Because the order in this case does not involve "the payment of money *by appellant* or the performance of an act by or against him," it is not appealable as a collateral order.[5] (*Sjoberg, supra*, 33 Cal.2d at p. 119, emphasis added.) Should the Legislature wish to make an interim order for attorney fees in anti-SLAPP cases appealable, it may; we decline to do so.

B. Cases Suggesting a Right to Appeal

"In general, the party prevailing on a special motion to strike may seek an attorney fees award through three different avenues: simultaneously with litigating the special motion to strike, by a subsequent noticed motion, or as part of a cost memorandum at the conclusion of the litigation." (*Melbostad v. Fisher* (2008) 165 Cal.App.4th 987, 992.) Where, as here, the appeal involves "a separate attorney fee order," it "should not be

[5] The performance of an act, in our view, must mean something other than the payment of money.

heard on interlocutory appeal …." (*Baharian-Mehr v. Smith* (2010) 189 Cal.App.4th 265, 274 (*Baharian*); *Luster, supra,* 145 Cal.App.4th at p. 150 ["If the motion for fees under section 425.16, subdivision (c), is filed after the trial court rules on the special motion to strike—as it was in the case at bar—the order awarding or denying those fees is not an 'order granting or denying a special motion to strike'; and no plausible argument can be made that such an order is immediately appealable under section 425.16, subdivision (i)."].)

Nonetheless, our order deferring consideration of the motion to dismiss cited *Baharian* as follows: "it would be absurd to defer the issue of attorney fees until a future date, resulting in the probable waste of judicial resources." (*Baharian, supra,* 189 Cal.App.4th at p. 275.) The full quote, however, reads:

> "In cases where, as here, the issue of whether the anti-SLAPP motion should have been granted is properly before the appellate court, it would be absurd to defer the issue of attorney fees until a future date, resulting in the probable waste of judicial resources. When the first issue is properly raised, appellate jurisdiction over both issues under section 425.16, subdivision (i) is proper." (*Baharian, supra,* 189 Cal.App.4th at p. 275.)

This case is different—the propriety of whether the anti-SLAPP motion should have been granted is not at issue.[6]

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[6] As Delis points out, Thorn did originally appeal the anti-SLAPP ruling but later abandoned the appeal and this court granted a dismissal. (Case No. F084130.) Delis asks us to judicially notice those facts, based on the record in that case. We grant Delis's request in the disposition.

Delis also suggests the fact Thorn dismissed the appeal "should not … affect[]" appealability. We believe the suggestion misses the mark.

Where the party *losing* the anti-SLAPP motion is also ordered to pay attorney fees, it makes sense both issues are simultaneously reviewable. (*Baharian, supra,* 189 Cal.App.4th at p. 275.) The converse—where the party prevailing on the motion is awarded fees—is not the same situation. In the latter situation, the attorney fees award should be added to the judgment at the case's conclusion. (§§ 685.090, subd. (a) & 1033.5, subd. (a)(10).) It then becomes appealable under section 904.1. (See *Dr. V,*

Next, in *Colton,* an "attorney fee award" "growing out of [an] anti-SLAPP motion" *was* found appealable because it was collateral and "involve[d] the payment of money by the appellant …." (*Colton, supra,* 206 Cal.App.4th at pp. 781-782.)[7] Again, this case is different—it does not involve the payment of money *by the appellant*: Delis.

Finally, a successful anti-SLAPP motion oftentimes leaves nothing to litigate. "When the trial court issues an appealable order akin to a final judgment, a party may appeal from a subsequent order granting or denying a request for an award of attorney fees and costs as an 'order made after a judgment'…." (*Ellis Law Group, LLP v. Nevada City Sugar Loaf Properties, LLC* (2014) 230 Cal.App.4th 244, 251.)

There is no final judgment in this case.[8] Both parties have claims remaining to litigate. When the judgment is final, Delis may appeal and raise the attorney fees issue. (Cf. *Dr. V, supra,* 68 Cal.App.5th at p. 799 ["Appellant has an adequate remedy on appeal, just not at this time."].)

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supra, 68 Cal.App.5th at pp. 797-799 [right to appeal "not always reciprocal [between] the parties"].)

Notably, Thorn requested to dismiss appeal F084130 nearly nine full months before filing the motion to dismiss in this appeal. There appears no gamesmanship to the prior dismissal. We also think it makes little sense to suggest that, if one party files a statutory appeal, a *different* party may appeal related issues *not authorized* by statute.

[7] The appellate court in *Apex LLC v. Korusfood.com* likewise found an attorney fees award directly appealable as a collateral order. (*Apex LLC v. Korusfood.com* (2013) 222 Cal.App.4th 1010, 1015-1016.) Its posture, however, is identical to *Colton, supra,* in that it was the *appellant* ordered *to pay* the fee.

[8] Delis also cites to *Krikorian Premiere Theaters, LLC v. Westminster Central, LLC* (2011) 193 Cal.App.4th 1075. That case, and its progeny, are inapposite because they largely involve "the unique nature of an award of costs *on appeal*" where "the relevant final judgment is the judgment of the *Court of Appeal.*" (*Ibid.*, emphasis in original.) The anti-SLAPP ruling in this case is not a final judgment within the scope of section 904.1.

DISPOSITION

Delis's request for judicial notice, filed on May 5, 2023, is granted. Thorn's request for judicial notice, filed on March 22, 2023, is denied.

The motion to dismiss is granted and the appeal is dismissed. Costs are awarded to respondents.

SNAUFFER, J.

WE CONCUR:

PEÑA, Acting P. J.

MEEHAN, J.

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County of Los Angeles)
)

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