

**VIRGINIA:**

*In the Supreme Court of Virginia held at the Supreme Court building in the City of Richmond on Thursday the 18th day of July, 2019.*

Present: All the Justices

World Telecom Exchange Communications, LLC, Appellant,

against Record No. 180901  
Circuit Court Nos. CL2012-15054 and CL2014-09553

Yacoub Sidya, Appellee.

Upon an appeal from a judgment rendered by the Circuit Court of Fairfax County.

This case returns to us following our initial remand to the trial court, in which we entered an order vacating the judgment below and remanding for further proceedings. On remand, the trial court dismissed the case brought by World Telecom Exchange Communications, LLC (“World Telecom”). World Telecom contends that the trial court misconstrued our order and erred in dismissing the case. We agree with World Telecom.

Two entities filed suit in this case against Yacoub Sidya: a parent company, Tulynet FZ, LLC (“Tulynet”), which was previously known as World Telecom Xchange Carrier FZ, LLC, and a subsidiary with a name that is confusingly similar to Tulynet’s former name, World Telecom Exchange Communications, LLC. In our order reversing and vacating the judgment below, we concluded that the parent company, Tulynet, “did not obtain either a certificate of authority or a certificate of registration from the State Corporation Commission . . . prior to the entry of the judgment, and that it needed to do so,” as required by Code §§ 13.1-758(A) and 13.1-1057(A). *See World Telecom Exchange Communications, LLC v. Sidya*, 2017 WL 3084091 (July 20, 2017).

As to the subsidiary company, named in the complaint as World Telecom Exchange Communications, LLC, we observed that the post-verdict judgment order listed “Tulynet FZ, LLC” and “World Telecom Xchange Carrier, FZ, LLC,” which constituted “the present and former names for the parent company, respectively.” In other words, the order listed one plaintiff twice instead of both of the separate plaintiffs. The order did not name World Telecom. The trial court later reaffirmed the post-verdict judgment order, as amended on other matters, and it was “entered as a Partial Final Judgment.” For these reasons, on appeal, our decision took into account that “[t]he judgment order does not enter judgment in favor of Tulynet’s subsidiary, World Telecom Exchange Communications, LLC.”

In light of these conclusions, we reversed and vacated the September 18, 2015 Final Order, the December 11, 2015 Order on Post-Verdict Motions, and the March 11, 2016 Partial Final Judgment as to Defendant Yacoub Sidya “entered in favor of Tulynet FZ, LLC and World Telecom Xchange Carrier FZ, LLC.” *Id.* at 39. We also “remand[ed] the case to the trial court with instructions (i) to enter a final judgment dismissing Tulynet’s claims against Sidya and (ii) to bring to closure all remaining matters not addressed in the vacated judgment order.” *Id.*

On remand, the trial court dismissed Tulynet as required by our July 20, 2017 order. The trial court further declined to enter judgment for World Telecom, and instead dismissed the case. That ruling was in error.

First, nothing in the text of our July 20, 2017 order called for dismissal of the case successfully brought to verdict by one of the plaintiffs, World Telecom. The dismissal of a parent company from the litigation for failure to obtain a certificate from the SCC did not alter the fact that a separate legal entity, a subsidiary, which *had* obtained a certificate from the SCC, had also obtained a verdict against Sidya.

Second, contrary to Sidya's contention, the law of the case doctrine does not support Sidya. Our July 20 order vacated the judgment order and our order directed the trial court "to bring to closure all remaining matters not addressed in the vacated judgment order." As federal courts have recognized, the law of the case doctrine has no applicability to a vacated judgment. "The doctrine of the law of the case directs that a decision of an appellate court on an issue of law, *unless vacated or set aside*, governs the issue during all subsequent stages of litigation in the *nisi prius* [original trial] court and thereafter on any further appeal." *Commercial Union Ins. Co. v. Walbrook Ins. Co.*, 41 F.3d 764, 769 (1st Cir. 1994); *see also Safeco Ins. Co. of Am. v. City of White House*, 191 F.3d 675, 693 (6th Cir. 1999) (holding that, where the court of appeals had vacated a district court's judgment and the district court upon remand had reconsidered the issue of damages, the "law of the case" did not bar appellate review of the award of damages). World Telecom correctly argues that the effect of our order was to "wipe[] the slate clean on remand to just after the jury rendered its verdict in favor of [World Telecom] and Tuly[n]et, allowing the parties and trial court to begin anew regarding post-verdict motions and entry of judgment."

In addition, our statement in the July 20 order that the remaining issues were "moot" did not mean that we implicitly decided those issues in Sidya's favor. A "moot" question is one that is "hypothetical or academic." Black's Law Dictionary 1099 (9th ed. 2009). Our conclusion that no judgment was entered in favor of World Telecom and that Tulynet had failed to obtain a certificate meant only that we could not at that time address Sidya's sufficiency arguments. Nothing in the order suggests we implicitly resolved any issues in favor of Sidya.

Sidya advances a number of other arguments in favor of affirmance, but we find them to be without merit.

For these reasons, we reverse and remand this case with instructions to:

- (1) Enter a judgment on the verdict that addresses the proper parties and further reflecting any additional rulings the court elects to make on remand regarding other issues;
- (2) Now that TulyNET, the parent company and one of two plaintiffs, has been stricken from the case, hold a hearing to determine what portion of the damages should be allocated to the one remaining plaintiff, World Telecom Exchange Communications, LLC. If necessary, the court should reduce the amount of those damages to the amount in the plaintiff's *ad damnum* clause because the original jury verdict exceeded the amount requested in the *ad damnum* clause;
- (3) Reduce any award of the punitive damages to conform to the statutory cap. *See* Code § 8.01-38.1;
- (4) Address the award of interest;
- (5) Address any other issues the trial court deems necessary to bring this case to a close.

We note that, due to the posture of the case, our prior order did not resolve a number of issues that were raised in the first appeals brought to this Court by Sidya and World Telecom. Those issues remain open for the trial court to reconsider and for this Court to potentially address in a future appeal. We express no opinion as to the merits of those arguments.

Finally, this order does not address any aspect of the case with respect to any defendant, other than Sidya, who may remain in the case.

This order shall be certified to the Circuit Court of Fairfax County.

A Copy,

Teste:



Clerk