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This opinion shall not "constitute precedent or be binding upon any court."
Although it is posted on the internet, this opinion is binding only on the
parties in the case and its use in other cases is limited. R. 1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-3330-15T3

KELLY MORAN and CAROL MORELLO,

Plaintiffs-Respondents,

v.

BIOLITEC INC. and BIOMED
TECHNOLOGY HOLDINGS LTD.,

Defendants,

and

BIOLITEC AG and WOLFGANG
NEUBERGER,

Defendants-Appellants.

Argued December 4, 2017 — Decided December 15, 2017

Before Judges Sabatino and Ostrer.

On appeal from Superior Court of New Jersey,
Chancery Division, Mercer County, Docket No.
C-000063-09.

Edward Griffith (The Griffith Firm) of the New
York bar, admitted pro hac vice, argued the
cause for appellants (Szaferman, Lakind,
Blumstein & Blader, PC, and Edward Griffith,
attorneys; Barry D. Szaferman, of counsel;
Nathan M. Edelstein and Edward Griffith, on
the briefs).

Peter Reiser (Eiseman Levine Lehrhaupt & Kakoyiannis, PC) of the New York bar, admitted pro hac vice, argued the cause for respondents (Berman Rosenbach, PC, Peter Reiser and Eric R. Levine (Eiseman Levine Lehrhaupt & Kakoyiannis, PC) of the New York bar, admitted pro hac vice, attorneys; Philip Rosenbach, Eric R. Levine and Peter Reiser, on the brief).


PER CURIAM

Defendants Biolitec AG and Wolfgang Neuberger appeal from the trial court's February 24, 2016 post-judgment order, awarding plaintiffs counsel fees and costs incurred in enforcing that part of the court's prior judgment awarding plaintiffs over \$1 million in attorneys' fees and costs. Defendants also appeal from the trial court's September 28, 2015 post-judgment order, imposing a sanction of \$5000 a day upon defendants' failure to pay the fees and costs award. The award of over \$1 million in fees and costs was included in a March 9, 2015 default judgment plaintiffs obtained pursuant to the Oppressed Minority Shareholder statute, N.J.S.A. 14A:12-7, against the two defendants after the court struck their answer for discovery violations. A separate panel of our court reversed the default judgment on the ground that the court lacked personal jurisdiction over Biolitec AG and Neuberger. Moran v. Biolitec Inc., No. A-3701-14 (App. Div. Nov. 14, 2017). Plaintiffs have since filed a notice of petition for certification.

In light of those circumstances, the parties agreed at oral argument on the present appeal that the post-judgment orders should be vacated, without prejudice to plaintiffs' anticipated petition for certification and, if granted, Supreme Court review of the jurisdictional issue. We concur.

Vacated without prejudice. We do not retain jurisdiction.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION