

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

MOSKOWITZ FAMILY LLC,

Plaintiff,

v.

GLOBUS MEDICAL, INC.,

Defendant.

Civil Action No. 2:20-CV-03271

**PLAINTIFF MOSKOWITZ FAMILY LLC’S
NOTICE OF APPEAL**

Notice is hereby given that Plaintiff Moskowitz Family LLC (“Moskowitz”) hereby files this notice of appeal to the United States Court of Appeals for the Federal Circuit from the above-captioned matter.

Following a jury trial held on December 4-13, 2023, the jury returned a noninfringement verdict in favor of Defendant Globus Medical, Inc. [Dkt. 357.] On February 27, 2024, the Court entered a Final Judgment, [Dkt. 373], which the Court amended on March 5, 2024. [Dkt. 375.] The parties then filed various post-trial motions. Globus filed a Motion for Costs and Fees. [Dkt. 376.] Moskowitz filed a Motion for Judgment as a Matter of Law under Rule 50(b) and/or for a New Trial Under Rule 59. [Dkts. 377, 379.] These motions remain pending. Before trial, the Court partially granted summary judgment of noninfringement in Globus’s favor. [Dkts. 252, 253].

Moskowitz’s notice of appeal is timely under 28 U.S.C. § 1295 and Federal Rule of Appellate Procedure 4. Because Moskowitz’s post-trial motion remains pending, this notice will become effective when the Court enters an order resolving that motion. *See* Fed. R. App. P. 4(a)(4)(B)(i) (“If a party files a notice of appeal after the court announces or enters a judgment—

but before it disposes of any motion listed in Rule 4(a)(4)(A)—the notice becomes effective to appeal a judgment or order, in whole or in part, when the order disposing of the last such remaining motion is entered.”).

In view of the foregoing, Moskowitz appeals from any and all decisions, orders, rulings, findings, and/or conclusions adverse to Moskowitz, including all such orders, rulings, findings, and/or conclusions that are intertwined with, related to, or resulted in this appeal. These orders, rulings, findings, and/or conclusions include but are not limited to:

- August 25, 2021 Opinion & Order [Dkts. 143, 144] regarding claim construction;
- December 22, 2022 Opinion & Order [Dkts. 252, 253] granting-in-part Globus’s Motion for Summary Judgment [Dkts. 237, 238];
- November 28, 2023 Order Regarding the Parties’ Motions *in Limine* [Dkt. 322], including the decisions indicated on the hearing record [Dkts. 317, 318, 328, 329, 330, 331], and addressing Moskowitz’s Motions *in Limine* Nos. 1 through 7 [Dkts. 285, 291] and Globus’s Motions *in Limine* Nos. 1 through 10 [Dkts. 286-4, 289-4];
- The Court’s discovery and pre-trial evidentiary rulings;
- The Court’s evidentiary rulings during trial, [*see, e.g.*, Dkts. 358, 359, 360, 361, 362, 363, 364, 365, 366, 367];
- December 12, 2023 Rulings at the Charge Conference [Dkts. 365, 367];
- December 13, 2023 Final Jury Instructions as read during trial [Dkts. 366, 367];
- December 13, 2023 Jury Verdict [Dkt. 357];
- February 27, 2024 Final Judgment [Dkt. 373]; and
- March 5, 2024 Amended Final Judgment [Dkt. 375].

Dated: March 28, 2024

Respectfully Submitted,

FISH & RICHARDSON P.C.

By: /s/ Joseph V. Colaianni, Jr.

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CERTIFICATE OF SERVICE

I, Joseph V. Colaianni, Jr., counsel for Plaintiff, herein, hereby state that on this date March 28, 2024, I did cause a true and correct copy of the foregoing **PLAINTIFF MOSKOWITZ FAMILY LLC'S NOTICE OF APPEAL** to be served via electronic mail upon all counsel of record.

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