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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

GEORGE RALLI et al, Plaintiffs, v. HRAYR K. SHAHINIAN, M.D. et al., Defendants and Respondents; MEDICAL BOARD OF CALIFORNIA, Appellant and Real Party in Interest	B284153 (Los Angeles County Super. Ct. No. BC362005)

APPEAL from a judgment of the Superior Court of Los Angeles County, Gregory Keosian, Judge. Reversed.

Baker, Keener & Nahra, Phillip A. Baker and Christopher K. Mosqueda; Girardi Keese, Thomas V. Girardi and James G. O'Callahan; Carroll, Kelly, Trotter, Franzen, McKenna & Peabody and Richard D. Carroll for Defendants and Respondents Hrayr K. Shahinian, M.D., Skull Base Institute, and Skull Base Medical Group, Inc.

Xavier Becerra, Attorney General, Gloria L. Castro, Assistant Attorney General, Robert McKim Bell and Rebecca L. Smith, Deputy Attorneys General, for Appellant and Real Party in Interest Medical Board of California.

In 2010, after a bench trial, the trial court entered judgment against Hrayr Shahinian and his corporations, Skull Base Institute and Skull Base Medical Group, Inc. (collectively, respondents), on George Ralli's claims for medical malpractice, fraud, and intentional infliction of emotional distress. The trial court awarded compensatory and punitive damages. We affirmed in an unpublished decision. (*Ralli v. Skull Base Institute* (Feb. 28, 2012, B225675) [nonpub. opn.].)

Approximately six years later, on August 11, 2016, the Medical Board of California revoked Shahinian's license to practice medicine after a nine-day hearing at which both sides presented expert testimony based at least in part on the *Ralli* lawsuit. Respondents challenged the Medical Board's revocation by filing a petition for writ of mandate in Sacramento Superior Court. While the mandate proceeding was pending, respondents filed a petition for writ of error coram nobis in Los Angeles Superior Court (where the *Ralli* judgment was entered) seeking to vacate the 2010 *Ralli* judgment.[1] Respondents argued that the Medical Board had revoked his medical license based on inaccurate findings made in the 2010 judgment. Respondents further asserted that "newly discovered evidence" established

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[1] A writ of error coram nobis may be granted when the petition shows (1) "some fact existed which, without any fault or negligence on his part, was not presented to the court at the trial on the merits, and which if presented would have prevented the rendition of the judgment," (2) the "newly discovered evidence" does not go to the merits of issues of fact tried, and (3) the newly discovered evidence was not known to petitioner and "could not in the exercise of due diligence have been discovered by him at any time substantially earlier than the time of his motion for the writ." (*In re Derek W.* (1999) 73 Cal.App.4th 828, 832.)

that the 2010 judgment was based on a mistake of fact and therefore void.

Respondents soon after acknowledged that there was no "newly discovered" evidence, but argued that the judgment should still be vacated based on an expert witness's new interpretation of evidence that had been presented at the 2010 trial. The Medical Board sought to intervene in the coram nobis proceeding and oppose the petition. The trial court denied the Medical Board's request and granted the writ of coram nobis, entering a new judgment in favor of respondents. The Medical Board moved to vacate the new judgment on the ground that there was no newly discovered evidence warranting coram nobis relief. The court denied the motion.

The Medical Board now appeals, arguing the trial court erred in vacating the *Ralli* judgment. We agree with the Medical Board and reverse.[2]

FACTUAL AND PROCEDURAL BACKGROUND

1. *The Botched Surgery*

In February 2006, George Ralli (Ralli) was diagnosed with a benign tumor, known as an acoustic neuroma, growing on nerve bundles connected to his inner ear. Although it was benign, the tumor had to be removed or it would eventually destroy Ralli's hearing. Facial paralysis and loss of balance were likely other effects.

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[2] Counsel were given the opportunity to file supplemental letter briefs as to whether the parties used the proper procedure in filing the coram nobis petition and opposing it, and whether the trial court acted within its jurisdiction. (See Gov. Code, § 68081.) Both parties filed briefs and the panel has read and considered them.

A doctor in Maryland, where Ralli lived, proposed removing the tumor through the middle fossa surgical approach, which is an accepted method for removing an acoustic neuroma. The doctor told Ralli that the middle fossa approach, by which a surgeon reaches the tumor by entering through the side of the patient's skull, involved a one- to two-week hospital stay and four to eight weeks of recovery at home. The doctor estimated Ralli had a 60 to 70 percent chance of keeping his hearing given the tumor's then size and location, a success rate seconded by independent expert testimony at trial.

Seeking better odds and a quicker recovery, Ralli contacted respondents. Respondents proposed using a different technique, the retrosigmoid approach, to remove Ralli's tumor. According to respondents, the approach resulted in briefer hospitalization and less recovery time than the course recommended by the Maryland doctor. Respondents claimed their approach promised a 98 percent chance of preserving Ralli's hearing.

On March 1, 2006, Shahinian performed surgery on Ralli using the retrosigmoid approach. Immediately after completing the operation, Shahinian told Ralli's wife he had successfully removed the entire tumor. In fact, Shahinian had completely missed the tumor, which remained intact in Ralli's internal auditory canal. When Ralli later awoke from the surgery, he could still hear, but suffered from a painful headache. Ralli continued to suffer headaches as of the time of trial.

Because of the headache, Shahinian ordered an MRI of Ralli's skull. The radiologist who interpreted the MRI taken the next day reported the tumor remained, but Shahinian told Ralli the radiologist had misinterpreted normal postsurgical scarring and that the MRI showed the surgery had succeeded. At the bench trial, the court found the pre-surgery MRI taken in

Maryland in February 2006 and the postsurgery MRI ordered by Shahinian showed even to a lay person's cursory examination that the surgery had failed. The court stated, "No competent physician could have come to any conclusion other than the tumor was still present postsurgery." Moreover, a few days after the surgery, Shahinian received a pathology report stating no tumor tissue existed in the material he had removed from Ralli during surgery. As the court found, "Soon after the surgery Dr. Shahinian had both an MRI and a pathology report available which showed that the surgery was an abject failure. He did not communicate this information to the Rallis."

On March 25, 2006, in response to Ralli's request for his surgical records, Ralli received in the mail two separate envelopes. Each envelope contained the pathology report from Ralli's operation. The reports recorded diametrically opposite results. One report stated the pathologist had detected no tumor tissue in the tested sample—the operative language being "no features of acoustic neuroma seen"—in the material Shahinian took from Ralli's skull, meaning Shahinian had not removed the tumor, but some other type of tissue. The other report, which was an altered copy of the first report with the word "no" apparently whited-out so that its operative language was "features of acoustic neuroma seen," suggested Shahinian *had* removed the tumor.

The trial court eventually found at trial that the altered report had been mailed to Ralli either by Shahinian or at his direction. The court observed, "This was telling evidence in support of plaintiff's case. No one besides Shahinian would benefit from or had the motivation to falsify a pathology report to hide the fact that he failed to remove the tumor during surgery.

The falsified report therefore confirmed what Dr. Shahinian had told [Ralli's wife] following surgery, that he removed the tumor."

Based on the contradictory pathology reports, Ralli's physician in Maryland ordered a third MRI of his skull in April 2006. Ralli's Maryland doctor reviewed the three MRIs from February 2006, the day after Ralli's surgery in March 2006, and April 2006. Placing the three MRI images side-by-side, the Maryland doctor showed Ralli that the tumor remained in Ralli's left internal auditory canal. On May 25, 2006, the Maryland doctor operated on Ralli and removed the tumor. Unfortunately, the surgery rendered Ralli completely deaf. A medical expert testified at trial that the Maryland doctor's approach for removing the tumor would to a "reasonable degree of medical probability" have preserved Ralli's hearing if it had been used in March 2006 instead of Shahinian's unsuccessful retrosigmoid approach.

2. *The Rallis' Lawsuit Against Shahinian*

In November 2006, the Rallis filed their complaint against respondents. Ralli alleged causes of action for medical malpractice, fraud, and intentional infliction of emotional distress, and his wife, a cause of action for loss of consortium. Prior to trial, respondents filed a Designation of Expert Witnesses stating that four medical expert witnesses had been retained to testify on their behalf, and 21 other experts, including nine doctors, would testify as non-retained experts. Over the course of a seven-day bench trial, ten witnesses testified; expert witnesses were called by both sides. Shahinian testified extensively.

In 2010, the court entered judgment for the Rallis. In a 12–page statement of decision, the court found multiple ways in which Shahinian's treatment of Ralli was negligent. His

negligence included: using the retrosigmoid approach to try to remove the tumor at the distal end of Ralli's internal auditory canal; failing during the operation to locate and identify the tumor; telling Ralli the operation had succeeded; misinterpreting the postoperative MRI which showed the tumor remained; misreporting to Ralli the postoperative MRI's results; and misreporting to Ralli the pathologist's conclusion that Shahinian had not removed the tumor. The court additionally found that Shahinian "engaged in extreme and outrageous conduct" by trying to hide his failure to remove the tumor, and that his conduct was a substantial factor in causing Ralli emotional distress. Finally, the court found Shahinian had knowingly committed fraud by falsely telling the Rallis that his surgical approach promised a 98 percent chance of preserving Ralli's hearing.

The court awarded Ralli $500,600 in compensatory damages and $300,000 in punitive damages. The court awarded Ralli's wife $150,000 for loss of consortium. We affirmed the judgment on appeal.

3. *The Administrative Proceeding to Revoke Shahinian's License*

After the trial, the Medical Board filed an accusation of professional misconduct against Shahinian. In 2016, approximately six years after the *Ralli* judgment was entered, the matter was tried over nine days before an administrative law judge. The Medical Board presented the expert testimony of a neurosurgeon who specialized in brain tumor surgery and had treated acoustic neuromas for 15 years. Shahinian presented the expert testimony of Dr. John Tew. On August 11, 2016, that judge issued a twenty-page decision revoking Shahinian's medical license. The judge concluded that "the safety of the

public cannot be protected if [Shahinian] is permitted continued licensure at this time."

On August 24, 2016, Shahinian filed a petition for writ of mandate in the Sacramento Superior Court challenging the Medical Board's decision to revoke his license.

4. *Respondents Petition to Vacate the Ralli Judgment*

Some ten weeks later—again six years after judgment had been entered in the *Ralli* case—on November 9, 2016, respondents filed a petition for writ of error coram nobis in the Los Angeles Superior Court "to vacate, or in the alternative, modify the 2010 statement of decision." The judge who presided over the original bench trial, Judge J. Stephen Czuleger, recused himself, and the matter was reassigned to Judge Gregory Keosian.[3]

Respondents argued in the coram nobis petition that the Medical Board had recommended the revocation of his medical license based on inaccurate findings made in the *Ralli* judgment. Respondents requested the court vacate those findings based on "newly discovered evidence," namely, "the Maryland Operative Report, which was *revealed* during the administrative hearing before the Medical Board, and which was not presented at trial." (Emphasis added.) Shahinian's counsel filed a copy of the Maryland Operative Report bearing the posttrial date of March 31, 2011.

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[3] Judge Czuleger recused himself to "further the interests of justice" and because a "person aware of the facts might reasonably entertain a doubt that the judge would be able to be impartial." (Code Civ. Proc., § 170.1, subd. (a)(6)(A)(i) & (iii).) No further explanation appears in the record.

Contrary to respondents' claim that they had "discovered" the Maryland Operative Report during the posttrial administrative proceedings, the report *had* been presented at trial. As explained below, respondents' trial counsel soon admitted this to Judge Keosian.

On November 22, 2016, two weeks after respondents had filed the petition, respondents moved to continue the writ of mandate hearing in Sacramento because of the coram nobis petition in Los Angeles. Respondents' counsel filed a "request for continuance" in the Sacramento court stating that the "evidentiary basis for Dr. Shahinian's Petition for Writ of Error *Coram Nobis* is that plaintiffs in that matter had concealed relevant personal financial information from the court and testified falsely during the 2010 trial." Respondents did not disclose that they were moving to vacate the *Ralli* judgment on the ground that they had recently "discovered" the "Maryland Operative Report." The Sacramento court continued the hearing.

5. *The Medical Board Attempts to Intervene*

On February 7, 2017, Judge Keosian held a hearing on the coram nobis petition. Only counsel for respondents were present.[4] During the hearing, Judge Keosian asked respondents' counsel, Richard D. Carroll, "Weren't you aware of the Maryland Report at the time of trial?" Carroll responded, "The Maryland Operative Report, yes." Judge Keosian took the matter under

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[4] From the time the case was transferred to Judge Keosian, nothing in the record indicates that the Rallis participated in the proceedings. The coram nobis petition itself provides the explanation: "Dr. Shahinian is not seeking to reverse the monetary award as that has been issued and that part of the matter is closed."

submission, but allowed respondents to file further evidence in support of the petition.

On February 16, 2017, respondents' counsel, Phillip Baker, filed a declaration stating that the Medical Board was "aware" of the coram nobis petition and had chosen not to oppose it or intervene. Respondents then filed a declaration by neurosurgeon John Tew, the same expert who had testified during the administrative proceedings, that Shahinian had not been negligent in his surgical treatment of Ralli. At the time, the Medical Board's counsel, who was monitoring the case summary for the coram nobis petition, found it odd that Shahinian would file a medical expert's declaration when the coram nobis petition was ostensibly about whether the Rallis had concealed financial information at trial.

The Medical Board's counsel ordered copies of the recently filed declarations and realized that respondents were moving to vacate the judgment based on "newly discovered" medical evidence. Within several days, the Medical Board filed a "request for leave to file opposition" to the coram nobis petition. The Medical Board argued that (1) respondents' counsel, Phillip Baker, had been "disingenuous and underhanded" in stating that proper notice had been given to the Medical Board as the Medical Board had not been served with any documents in the matter; and (2) respondents were "improperly attempting to re-open issues of facts already litigated" in both the *Ralli* trial and the administrative proceeding against Shahinian.

6. *Judge Keosian Denies the Medical Board's Request and Vacates the Judgment*

On March 30, 2017, Judge Keosian denied the Medical Board's request to file an opposition, and granted the coram nobis petition. Despite the admission of respondents' counsel that they

knew about the Maryland Operative Report at the time of trial, Judge Keosian found that the "operative report *only became available* to Defendant at the administrative hearing; there is no other remedy available to Defendant to have the court consider the new evidence; this new evidence compels a different result; the failure to produce the document was not the fault or due to the negligence of Defendant and was unknown to Defendant; the factual issue of the location of the tumor has not been adjudicated; all leading to a failure of a meaningful hearing on the full merits." (Emphasis added.)

Judge Keosian concluded that the report and Dr. Tew's testimony showed that the tumor was located *outside* of the internal auditory canal (IAC), and had "the [original trial] court known that the tumor was deeply impacted . . . *outside* of the IAC, the result would have been different." Judge Keosian did not address Judge Czuleger's findings in the 2010 statement of decision that "Dr. Shahinian *admitted at trial* that when he probed the distal end *of the IAC*, his probe made contact with tissue, *which he said he now knows was the tumor* . . . ."

In addition, despite the fact that Shahinian had filed a Designation of Expert Witnesses stating that four medical expert witnesses had agreed to testify at his trial, and the fact that Shahinian had actually presented expert testimony at trial, Judge Keosian concluded there had been an "absence of a defense expert" at trial. Judge Keosian found that "the political climate and rivalries that existed at the time resulted in the difficulty and *eventual failure* in attaining an expert to testify. [Citation.] Had the report and the testimony of Dr. Tew been available at trial, the result would have been different." (Emphasis added.)

Judge Keosian concluded that "the damages sustained by [the Rallis] were not a result of Defendant's negligence." Judge

Keosian did not address the trial court's findings that Shahinian had engaged in "extreme and outrageous conduct," fraud, and "malice and oppression," but simply vacated the entire judgment on the ground Shahinian had not been negligent. Judge Keosian ordered that a new judgment be entered in favor of respondents.

7. *The Medical Board Moves to Set Aside the Judgment*

The Medical Board moved to set aside the order granting the petition.[5] The Medical Board argued, "THE OPERATIVE REPORT IS NOT NEW EVIDENCE. . . . The Maryland 2006 Operative Report was available and utilized *by the defense* during discovery and at trial in 2010." In opposition, respondents *acknowledged* this misrepresentation: "Defendants' moving papers admittedly stated the operative report was not in possession at the time of the adjudication before Judge Czuleger[;] it *should* have read that there was not the appropriate and correct interpretation of the document . . . ." (Emphasis added.)

On May 4, 2017, the court entered judgment in favor of respondents. On July 18, 2017, Judge Keosian denied the Medical Board's motion to vacate. He faulted the Medical Board for having "failed to file an Opposition to the Petition for Writ of

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[5] Although the Medical Board's motion was for reconsideration of the order granting the petition, "fairness requires us to construe" it as a motion to vacate the judgment. (See *Passavanti v. Williams* (1990) 225 Cal.App.3d 1602, 1608–1609 [holding that "good cause exists and fairness requires us to construe" a prejudgment motion for reconsideration as a motion to vacate judgment].) Because the Medical Board filed its appeal within 30 days after it was served with an order denying the motion to vacate, the appeal is timely. (See Cal. Rules of Court, rule 8.108(c)(1).)

Error *Coram Nobis*," despite having denied the Medical Board leave to do so. On July 26, 2017, the Medical Board timely appealed.

DISCUSSION

1. *The Medical Board Has Standing to Appeal*

Respondents contend that the Medical Board does not have standing to appeal because it was not a party below. We disagree. The Medical Board's motion to set aside the judgment vested the Medical Board with appellate standing.

We begin with the general proposition that "any party having an interest recognized by law in the subject matter of the judgment, which interest is injuriously affected by the judgment, is a party aggrieved and entitled to be heard upon appeal [citations]; therefore, the right of appeal should be recognized wherever it is not precluded by statute, and it should not be denied upon technical grounds if the appellant is acting in good faith. [Citation.]" (*Redevelopment Agency v. City of Berkeley* (1978) 80 Cal.App.3d 158, 166.)

"A nonparty whose rights or interests are injuriously affected by a judgment or an appealable order may file a nonstatutory motion to vacate the judgment or order, and may appeal the denial of such a motion. [Citations.] A motion to vacate in the trial court provides a means by which such a nonparty may become a party to the litigation with a right of appeal without the need to formally intervene in the action [citation]. [Citations.]" (*Henry M. Lee Law Corp. v. Superior Court* (2012) 204 Cal.App.4th 1375, 1382 [construing motion to amend an order awarding attorney fees as a motion to vacate the order vesting the nonparty with appellate standing].)

For the purposes of obtaining the right to appeal via a motion to vacate the judgment, a nonparty must be considered

sufficiently " 'aggrieved' by a judgment." (*California Ass'n of Psychology Providers v. Rank* (1990) 51 Cal.3d 1, 9 (*Rank*).) In *Rank*, the Supreme Court held that the appellant medical associations and physicians were sufficiently aggrieved where the trial court's judgment "diminishe[d] the sphere of responsibility of physicians . . . and thus can be expected to affect the authority and income of the physicians." (*Id.* at p. 10.) The Court noted other cases where the appellants had an interest "sufficient to confer standing to appeal" including "*Simac Design, Inc. v. Alciati* (1979) 92 Cal.App.3d 146 [] which held supporters of a growth control initiative were aggrieved by a decision mandating issuance of building permits contrary to the terms of the initiative" and "*Redevelopment Agency v. City of Berkeley* [*supra,*] 80 Cal.App.3d 158 [] which held a homeowners group aggrieved by a judgment invalidating an initiative that removed their homes from a redevelopment plan." (*Ibid.*)

We conclude the Medical Board was sufficiently aggrieved by the trial court's judgment. Ironically, in light of Shahinian's express concession that by the coram nobis petition he was "not seeking to reverse the monetary award" to the Rallis, the Medical Board appears to have been the *only* party aggrieved by the petition.

The mission of the Medical Board is to protect the health and safety of the public through the proper licensing and regulation of physicians and surgeons. After the Medical Board conducted a lengthy administrative hearing regarding Shahinian's professional misconduct and decided to revoke his license, and while a mandamus petition was pending in Sacramento Superior Court, Shahinian sought to undo the revocation by filing the coram nobis petition in this case. Specifically, the coram nobis petition asked Judge Keosian to

reconsider the 2010 judgment because "the result of that decision has le[]d to a Board recommendation—based almost entirely on collateral estoppel—that Dr. Shahinian should be stripped of his professional license." In other words, the new judgment vacating the malpractice findings against Shahinian was secured for the purpose of (1) undoing the labors of the Medical Board, namely a nine-day trial leading to the revocation of Shahinian's medical license, and (2) affecting the pending mandamus proceeding in which the Medical Board was a party. We find the Medical Board is sufficiently aggrieved and has standing to challenge the new *Ralli* judgment.[6]

2. *Judge Keosian Erred in Vacating the Judgment Against Respondents*

The Medical Board argues the trial court abused its discretion in granting respondents' coram nobis petition because there was no newly discovered evidence. Respondents argue that their expert's new interpretation of a medical report submitted at trial constituted the required "newly discovered" evidence. We agree with the Medical Board.

"The writ of error *coram vobis* exists to 'correct an error of fact which was unrecognized prior to the final disposition of the proceeding.[7] It is not intended as a means of revising findings based on known facts, or facts that should have been known by the exercise of ordinary and reasonable diligence.' [Citation.]

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[6] Respondents' motion to dismiss is denied.

[7] The "writ of coram *vobis* is essentially identical to the writ of coram *nobis* except the latter is addressed to the court in which the petitioner was convicted. [Citation.]" (*People v. Brady* (1973) 30 Cal.App.3d 81, 83 (emphasis added).) A coram vobis petition is filed in an appellate court. (*Ibid.*)

Accordingly, the scope of the writ is extremely narrow and it may not be used where some other remedy is available. [Citation.]" (*In re Derek W., supra,* 73 Cal.App.4th at pp. 831–832.)

" 'A writ of error *coram vobis* is considered to be a drastic remedy. . . .' [Citation.] Among the requirements for issuance of the writ is that '[t]he proffered new evidence will either compel or make probable a different result in the trial court' [citation] and that the 'proffered new evidence was unavailable to the petitioner because of extrinsic fraud that prevented the petitioner from having a meaningful hearing on the issue in question.' [Citation.]" (*Daniels v. Robbins* (2010) 182 Cal.App.4th 204, 228.) We review a trial court's ruling on a petition for writ of error coram nobis for abuse of discretion. (*People v. Kim* (2009) 45 Cal.4th 1078, 1095–1096.)

"As our Supreme Court stated in *People v. Shipman* (1965) 62 Cal.2d 226, 230 [ ] three requirements must be met before a writ of error *coram vobis* may be granted: '(1) Petitioner must "show that some fact existed which, without any fault or negligence on his part, was not presented to the court at the trial on the merits, and which if presented would have prevented the rendition of the judgment." [Citation] (2) Petitioner must also show that the "newly discovered evidence . . . [does not go] to the merits of issues [of fact] tried. . . . [Citation.] This second requirement applies even though the evidence in question is not discovered until after the time for moving for a new trial has elapsed or the motion has been denied." [Citations.] (3) Petitioner "must show that the facts upon which he relies were not known to him and could not in the exercise of due diligence have been discovered by him at any time substantially earlier than the time of his motion for the writ. . . ." [Citation.]' " (*In re Derek W.*, *supra*, 73 Cal.App.4th at p. 832.)

There was no newly discovered evidence here. Contrary to respondents' initial representations to the trial court in the petition, the parties now agree that the Maryland Operative Report was in fact admitted at the 2010 trial. Respondents argue instead that "Dr. Tew's accurate interpretation of the Maryland Operative Report—not the report itself—was precisely the evidence that Dr. Shahinian was deprived of in the *Ralli* Matter." Dr. Tew's belated opinion on evidence that was available at the trial is not "newly discovered" evidence for the purposes of a writ of error coram nobis. That at the bench trial respondents designated experts other than Dr. Tew who were not helpful to their cause is not extrinsic fraud that prevented respondents from "having a meaningful hearing on the issue in question." (*Daniels v. Robbins*, *supra*, 182 Cal.App.4th at p. 228.) Nor have respondents explained how Dr. Tew's opinion did not go to the merits of the issues of fact tried, thus disqualifying him from coram nobis relief. Dr. Tew opined that Shahinian's performance of surgery on Ralli was not negligent—that went directly to the merits of Ralli's medical malpractice claim which was the central issue at trial. On these grounds, Judge Keosian abused his discretion in granting the petition for writ of coram nobis.[8]

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[8] We also doubt that the trial court is authorized to simply enter a new judgment in a petitioner's favor after granting a writ of error coram nobis, but may only recall the original judgment. (See *United States v. Harris* (S.D. Cal. 1957) 155 F.Supp. 17, 21 ["Under the Common Law the granting of such a writ only vacated the judgment. The judgment was annulled or revoked and the petitioner was left in the same position as if no judgment had been given. This rule has been stated as follows: 'The judgment on a writ of error coram nobis is that the judgment complained of be recalled, revoked, and annulled, if the issue is

DISPOSITION

The order granting the writ of error coram nobis and vacating the *Ralli* judgment is reversed. The 2010 *Ralli* judgment is reinstated. The Medical Board is to recover its costs on appeal.

RUBIN, ACTING P. J.

WE CONCUR:

GRIMES, J.

GOODMAN, J.*

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found in favor of petitioner, whereupon the original suit is placed in the same position as it was when the judgment was rendered.' "])

* Retired Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.