

IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

BODY POWER, INC.,
Plaintiff-Appellee,

vs.

JOSEPH B. MANSOUR,
Defendant-Appellant.

APPEAL NO. C-090377
TRIAL NO. A-9308903

JUDGMENT ENTRY.

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

This is the fourth appeal in this case. In the last appeal (“*Body Power III*”),² this court reversed the trial court’s judgment, holding that defendant-appellant Joseph B. Mansour was entitled to the value of business assets that had been placed in a receivership at the start of litigation in this case. Accordingly, we remanded “the case to the trial court to determine the value of the assets that were originally put into the receivership.”

On remand, Mansour moved to pierce the corporate veil of plaintiff-appellee Body Power, Inc., arguing that Michael Fry, acting as the sole officer and shareholder of Body Power, was personally liable for judgments entered against Body Power under the “alter-ego” doctrine. The trial court denied the motion, stating that it could not consider the motion based on this court’s decision in *Body Power III*. The trial court then held a hearing on the value of the business assets, ultimately entering judgment in favor of Mansour in the amount of \$578,334.20 plus prejudgment interest.

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

² *Body Power v. Mansour* (Nov. 26, 2008), 1st Dist. No. C-080155.

OHIO FIRST DISTRICT COURT OF APPEALS

Mansour now appeals. In his single assignment of error, he contends that the trial court erred by denying his motion to pierce the corporate veil. We agree.

Once an appellate court remands a case, the lower court regains jurisdiction subject to the law-of-the case doctrine. Thus, it may consider and decide motions before it that are applicable to the continuing litigation in the lower court. In *Body Power III*, we remanded the case to the trial court with the instruction to determine the value of the business assets that had been placed in the receivership. While we asked the trial court to specifically do something, we did not include any limiting language in our remand. Thus, the trial court regained jurisdiction and had the authority to consider the merits of Mansour's motion to pierce the corporate veil, particularly when there was evidence that Fry had sold his stock in the corporation during the litigation. Accordingly, the single assignment of error is sustained.

We note that there is no assignment of error pertaining to the amount of the monetary award. We therefore affirm that part of the judgment.

The trial court's judgment is reversed in part to the extent that it denied Mansour's motion, and this case is remanded to the trial court to consider the merits of Mansour's motion to pierce the corporate veil in accordance with this judgment entry and the law.

A certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App. R. 27. Costs shall be taxed under App.R. 24.

HILDEBRANDT, P.J., SUNDERMANN and HENDON, JJ.

To the Clerk:

Enter upon the Journal of the Court on March 10, 2010
per order of the Court _____.
Presiding Judge