

IN THE COURT OF APPEALS OF TENNESSEE

FILED
June 9, 1997
Cecil Crowson, Jr.
Appellate Court Clerk

RICHARD C. CANADA and wife)	C/A NO. 03A01-9606-CV-00106
SHARON CANADA,)	BRADLEY COUNTY CIRCUIT COURT
)	
Plaintiffs-Appellants,)	
)	
v.)	
)	
ACE CODENT, ZAHN DENTAL COMPANY,)	
INC., and HENRY SCHEIN, INC.,)	
)	
Defendants,)	
)	
and)	
)	
ACECODENT INCORPORATED,)	
)	HONORABLE EARLE G. MURPHY,
Defendant-Appellee.)	JUDGE

OPINION AND ORDER

On September 23, 1996, we filed our opinion in this case. The Supreme Court granted the appellants' application for permission to appeal and remanded this matter to us by order entered May 5, 1997. We were directed by that court to reconsider this case in light of the Supreme Court's opinion in **Cobb v. Beier**, S/C No. 03S01-9610-CV-00106 (Supreme Court at Knoxville, April 28, 1997).

In view of the Supreme Court's decision in **Cobb**, we find and hold that the motion of Acecodent Incorporated to dismiss this appeal because of the failure of the appellants to serve a copy of the notice of appeal on the clerk of this court is not well taken and it is accordingly DENIED. To the extent our earlier opinion, and the judgment filed pursuant to it, find and hold otherwise, they are, to that extent, vacated and held for naught.

We adhere to the remainder of our earlier opinion, which held that the one issue raised by the appellants on this appeal is not well taken. It results that the judgment of the trial court is in all things affirmed. Costs on appeal are again taxed to the appellants.

IT IS SO ORDERED.

ENTER:

Charles D. Susano, Jr., J.

Houston M. Goddard, J.

Don T. McMurray, J.