

APR 17 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

WATEC AMERICA CORPORATION, a
Nevada corporation,

Plaintiff - Appellant,

v.

BERGER KAHN, a California limited
liability partnership; CRAIG ARONSON,
a resident of California,

Defendants - Appellees,

And

MICHELLE JALALI, a resident of
California; RYAN TULEY, a resident of
California; JOSEPH TROJAN, d/b/a
Trojan Law Offices, a resident of
California, and JESSICA SLUSSER, a
resident of California,

Defendants.

No. 06-56339

D.C. No. CV-05-01210-FMC

MEMORANDUM *

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

WATEC AMERICA CORPORATION, a
Nevada corporation,

Plaintiff - Appellant - Cross-
Appellee,

v.

MYERS DAWES ANDRAS AND
SHERMAN LLP; DANIEL DAWES;
JOSEPH ANDRAS; VIC LIN,

Defendants - Appellees - Cross-
Appellants,

And

MID-CENTURY INSURANCE
COMPANY, a California corporation,

Defendant.

No. 06-56722

No. 06-56736

D.C. No. CV-06-05526-FMC

Appeal from the United States District Court
for the Central District of California
Florence Marie Cooper, District Judge, Presiding

Argued and Submitted April 7, 2008
Pasadena, California

Before: BEEZER, T.G. NELSON, and SILVERMAN, Circuit Judges.

Plaintiff-appellant Watec America Corporation (“Watec America”) appeals the district court’s dismissal of its complaint. Defendant-appellee Myers Dawes Andras and Sherman LLP (“Myers Dawes”) cross-appeals the district court’s

denial of its motion for Rule 11 sanctions. We have jurisdiction under 28 U.S.C. § 1291. We affirm.

The district court did not abuse its discretion in judicially estopping Watec America from pursuing its former lawyers for malpractice. *See Hamilton v. State Farm & Cas. Co.*, 270 F.3d 778, 782 (9th Cir. 2001) (Judicial estoppel may be invoked “because of general considerations of the orderly administration of justice and regard for the dignity of judicial proceedings, and to protect against a litigant playing fast and loose with the courts.”) (quotation marks and alterations omitted).

Nor did the district court abuse its discretion in denying Myers Dawes’ motion for Rule 11 sanctions. *See Fed. R. Civ. P. 11*. Watec America’s complaint was not frivolous when filed.

AFFIRMED.