

FILED

JUL 2 2019

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

NAUTILUS INSURANCE COMPANY,

Plaintiff-Appellee,

v.

ACCESS MEDICAL, LLC; ROBERT
CLARK WOOD II,

Defendants-Appellants,

and

FLOURNOY MANAGEMENT, LLC,

Defendant.

Nos. 17-16840
18-15136

D.C. No.
2:15-cv-00321-JAD-GWF

MEMORANDUM*

NAUTILUS INSURANCE COMPANY,

Plaintiff-Appellee,

v.

ACCESS MEDICAL, LLC; ROBERT
CLARK WOOD II,

Defendants,

Nos. 17-16842
18-15214

D.C. No.
2:15-cv-00321-JAD-GWF

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

and

FLOURNOY MANAGEMENT, LLC,

Defendant-Appellant.

Appeal from the United States District Court
for the District of Nevada
Jennifer A. Dorsey, District Judge, Presiding

Argued and Submitted June 10, 2019
San Francisco, California

Before: GOULD, IKUTA, and R. NELSON, Circuit Judges.

Access Medical, LLC, Robert Wood, and Flournoy Management, LLC,¹ appeal the district court's two orders denying appellants' two requests that the district court issue an order indicating to this Court that the district court would grant or entertain a motion for relief, brought under Rule 60 of the Federal Rules of Civil Procedure, from the district court's order granting summary judgment in favor of Nautilus Insurance Company. We dismiss these consolidated appeals.

The district court lacked adjudicatory authority to rule on the merits of appellants' Rule 60 motions for relief from the district court's order granting summary judgment while that order was pending on appeal before this court,

¹ We reject Nautilus's argument that Flournoy lacks standing to bring this appeal. As an insured under the policy, Flournoy was adversely affected by the district court's grant of summary judgment in favor of Nautilus.

absent a limited remand allowing it to do so. *See Davis v. Yageo Corp.*, 481 F.3d 661, 685 (9th Cir. 2007). We therefore decline to exercise appellate jurisdiction over the district court's orders denying appellants' requests for indicative rulings. *See Defs. of Wildlife v. Bernal*, 204 F.3d 920, 930 (9th Cir. 2000).²

DISMISSED.

² Nautilus's motions for judicial notice (17-16840 Dkt. No. 30; 17-16842 Dkt. No. 29) are DENIED. Access and Wood's motions for judicial notice (17-16840 Dkt. Nos. 38, 64; 17-16842 Dkt. Nos. 37, 63; 18-15136 Dkt. Nos. 10, 32; 18-15214 Dkt. No. 29) are DENIED.