

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT F. BROOKER, M.D.; ROBERT
BROOKER, LTD.; CARDIOVASCULAR
ANESTHESIA CONSULTANTS; NANCY
DONOHUE, M.D.; WILLIAM J. CAVIN, JR.,
M.D.; AND ROBERT E. HENRY, M.D., D/B/A
CARDIOVASCULAR SURGERY OF
SOUTHERN NEVADA; AND
CARDIOVASCULAR SURGICAL SERVICES,
LLP,
Appellants,
vs.
ALLEN J. TREISE AND KAREN TREISE,
Respondents.

No. 43847

FILED

NOV 17 2004

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order certified as final under NRCP 54(b) that denied a motion to bifurcate a medical malpractice trial. Eighth Judicial District Court, Clark County; Kenneth C. Cory, Judge.

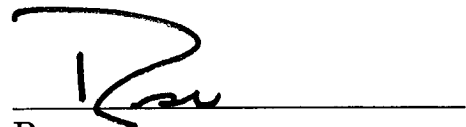
Respondents have moved to dismiss this appeal for lack of jurisdiction. Specifically, respondents contend that the district court's order denying bifurcation is not amenable to NRCP 54(b) certification. We agree.

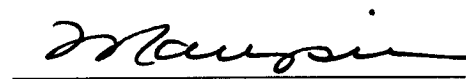
No statute or court rule authorizes an appeal from an order denying a motion to bifurcate trial; consequently, the order is not independently appealable.¹ Moreover, the district court cannot create finality through NRCP 54(b) certification when an order is not amenable

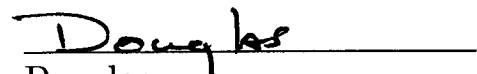
¹NRAP 3A(b); Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984); Kokkos v. Tsalikis, 91 Nev. 24, 530 P.2d 756 (1975).

to certification.² “An NRCP 54(b) certification is not available to provide interlocutory appellate review of an order which does not constitute a final adjudication of fewer than all claims or the rights and liabilities of fewer than all the parties in an action.”³ The district court order challenged by appellants did not dispose of any claims or parties in this case. Accordingly, it is not amenable to NRCP 54(b) certification, and the district court was without authority to direct the entry of a final judgment. Consequently, we lack jurisdiction and order this appeal dismissed.⁴

It is so ORDERED.⁵


_____, J.
Rose


_____, J.
Maupin


_____, J.
Douglas

²Taylor, at 209, 678 P.2d at 1153.

³Id.

⁴We note, however, that it appears that appellants may pursue this issue in any appeal from a true final judgment. See, e.g., Hallicrafters Co. v. Moore, 102 Nev. 526, 728 P.2d 441 (1986).

⁵In light of this order, we deny as moot respondents’ October 21, 2004 motion to strike appellants’ opposition, or in the alternative request to file a reply.

cc: Hon. Kenneth C. Cory, District Judge
Lansford W. Levitt, Settlement Judge
John H. Cotton & Associates, Ltd.
Mandelbaum & Schwarz, Ltd.
Vannah Costello Vannah & Ganz
Clark County Clerk