

IN THE SUPREME COURT OF THE STATE OF NEVADA

THOMAS MARLOWE AND THOMAS
CONNELLY,
Appellants,
vs.
PETE CONNOR,
Respondent.

No. 43920

FILED

JAN 06 2005

ORDER DISMISSING APPEAL

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

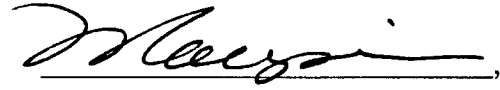
This is an appeal from a district court order denying a motion to compel arbitration by a party's former attorneys. Eighth Judicial District Court, Clark County; Nancy M. Saitta, Judge.

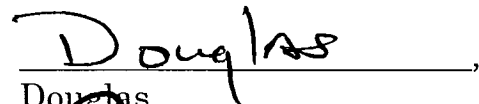
Respondent has filed a motion to dismiss this appeal, arguing that appellants, his former attorneys, were not parties to the district court action and thus are not aggrieved parties who may appeal under NRAP 3A(a). Appellants contend that since NRS 38.247 provides for an appeal from an order denying a motion to compel arbitration, this appeal is proper.

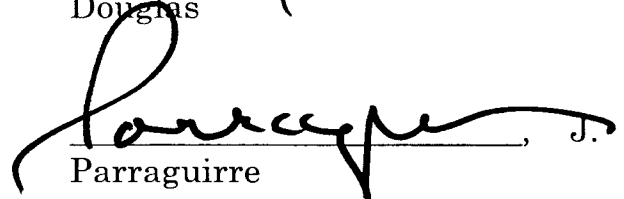
We have previously held that since an attorney is not a party to the underlying action, he may not appeal from an order in an attorney lien dispute adjudicated in the underlying action.¹ While NRS 38.247 makes an order denying a motion to compel arbitration substantively appealable, it does not purport to expand the definition of "party" in NRAP 3A(a). To the contrary, NRS 38.247(2) provides that an appeal from such

¹See Albert D. Massi, Ltd. v. Bellmyre, 111 Nev. 1520, 908 P.2d 705 (1995). We note that this rule does not apply if an independent action is filed to adjudicate the lien or to compel arbitration, see NRS 38.218(2), since the attorney is a party to the independent action.

an order “must be taken as from an order or a judgment in a civil action.”
Accordingly, we grant respondent’s motion and
ORDER this appeal DISMISSED.²

 J.
Maupin

 J.
Douglas

 J.
Parraguirre

cc: Hon. Nancy M. Saitta, District Judge
Eugene Osko, Settlement Judge
Beckley Singleton, Chtd./Las Vegas
Hinshaw & Culbertson
Brenske & Christensen
Simon Law Office
Clark County Clerk

²We note that appellants are free to file a petition for extraordinary relief under NRS Chapter 34 challenging the district court’s order. See Massi, 111 Nev. at 1521, 908 P.2d at 706.