

IN THE SUPREME COURT OF THE STATE OF NEVADA

SUNRISE HOSPITAL AND MEDICAL  
CENTER, A NEVADA CORPORATION,  
Appellant,

vs.

LINDA F. COOK AND FRANK COOK,  
INDIVIDUALLY AND AS HUSBAND  
AND WIFE; JOHN A. AMERIKS, M.D.,  
AN INDIVIDUAL; AND NEVADA  
SURGICAL GROUP, A NEVADA  
CORPORATION,  
Respondents.

No. 44237

**FILED**

AUG 26 2005

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

ORDER DISMISSING APPEAL

This is an appeal from a district court order granting a motion for good faith settlement determination and dismissing the underlying medical malpractice action as to two defendants. Eighth Judicial District Court, Clark County; Valorie Vega, Judge.

Respondents John A. Ameriks, M.D., and Nevada Surgical Group have moved to dismiss this appeal for lack of jurisdiction, and respondents Linda and Frank Cook have joined in the motion. Respondents assert that the order may not be appealed from as a final judgment, because it did not resolve all claims as to all parties and because it was not certified as final under NRCP 54(b). Appellant opposes the motion and argues that the order finally resolves all claims as to Ameriks and Nevada Surgical Group. Appellant also contends that the absence of any NRCP 54(b) certification is a "technical" defect that does not warrant dismissal of this appeal.


In Lee v. GNLV Corp.,<sup>1</sup> we explained that an appealable final judgment under NRAP 3A(b)(1) is "one that disposes of all the issues

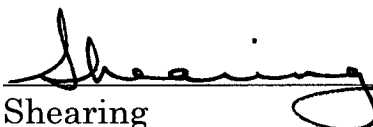
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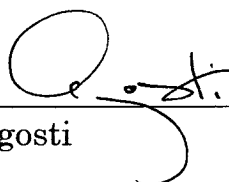
<sup>1</sup>116 Nev. 424, 426, 996 P.2d 416, 417 (2000).

presented in the case, and leaves nothing for the future consideration of the court, except for post-judgment issues such as attorney's fees and costs." We have further noted that "[i]n the absence of a proper certification of finality, an interlocutory order dismissing fewer than all the parties cannot be challenged on appeal until a final judgment is entered in the action fully and finally resolving all the claims against all the parties."<sup>2</sup> Here, the order appealed from dismissed the underlying action against fewer than all of the parties. Additionally, the district court has not made an express finding that no just cause for delay exists and directed entry of a final judgment under NRCP 54(b). We therefore lack jurisdiction over this appeal. Accordingly, we grant respondents' motion to dismiss and dismiss this appeal.

It is so ORDERED.<sup>3</sup>

  
\_\_\_\_\_, V.C.J.  
Rose

  
\_\_\_\_\_, Sr. J.  
Shearing

  
\_\_\_\_\_, Sr. J.  
Agosti

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<sup>2</sup>Fernandez v. Infusaid Corp., 110 Nev. 187, 192, 871 P.2d 292, 295 (1994).

<sup>3</sup>We deny appellant's motion to extend the time to file its opening brief as moot in light of this order.

The Honorable Miriam Shearing, Senior Justice, and the Honorable Deborah A. Agosti, Senior Justice, participated in the decision of this matter under a general order of assignment entered on July 14, 2005.

cc: Hon. Valorie Vega, District Judge  
Cooper & Scully, P.C.  
Hall, Prangle & Schoonveld, LLC/Las Vegas  
Cobeaga Tomlinson, LLP  
Lewis Brisbois Bisgaard & Smith, LLP  
Vannah Costello Vannah & Ganz  
Clark County Clerk