

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANNETTE NISGORE,
Appellant,
vs.
RALPHS GROCERY COMPANY, A
DELAWARE CORPORATION D/B/A
FOOD 4 LESS,
Respondent.

No. 44809

FILED

MAY 12 2005

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

ORDER OF REMAND AND DISMISSING APPEAL

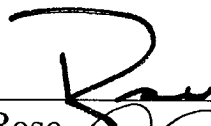
Appellant has filed a "Notice of Withdrawal of Appeal." In that notice, appellant represents that "this appeal has been rendered moot due to the District Court's Order reconsidering its prior ruling dismissing the underlying case and reinstating the action below."

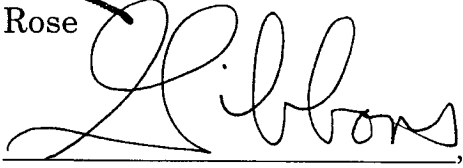
We note that "a timely notice of appeal divests the district court of jurisdiction to act and vests jurisdiction in this court." Rust v. Clark Cty. School District, 103 Nev. 686, 688, 747 P.2d 1380, 1382 (1987). Accordingly, once a notice of appeal is filed the district court loses jurisdiction to grant a motion for reconsideration. See Huneycutt v. Huneycutt, 94 Nev. 79, 575 P.2d 585 (1978); Smith v. Emery, 109 Nev. 737, 856 P.2d 1386 (1993). The district court may, however, certify that it is inclined to grant the requested relief upon remand. Id.

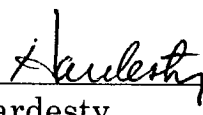
We elect to treat appellant's notice as a motion for remand and voluntary dismissal of this appeal and the district court's order granting appellant's motion for reconsideration as a certification that it is inclined to grant the requested relief upon remand pursuant to Huneycutt v. Huneycutt, 94 Nev. 79, 575 P.2d 585 (1978). Cause appearing, we grant

appellant's motion. Accordingly this matter is remanded to the district court and this appeal is dismissed.

It is so ORDERED.


_____, J.
Rose


_____, J.
Gibbons


_____, J.
Hardesty

cc: Hon. Douglas Herndon, District Judge
Hon. Carl J. Christensen, Senior District Judge
Carolyn Worrell, Settlement Judge
Blalock & Qualey
Brady, Vorwerck, Ryder & Caspino
Clark County Clerk