IN THE SUPREME COURT OF THE STATE OF NEVADA

FARMER BROTHERS DEVELOPMENT, CHTD., A NEVADA CORPORATION,
Appellant/Cross-Respondent,
vs.
PATRICIA J. HAMILTON, TRUSTEE OF THE PATRICIA J. HAMILTON LIVING TRUST; AND THE PATRICIA J. HAMILTON LIVING TRUST,
Respondents/Cross-Appellants.

No. 45641

FILED

JUL 12 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL AND CROSS-APPEAL

This is an appeal from a district court judgment and an order awarding damages, attorney fees, and costs in a breach of contract case, and a cross-appeal from the judgment. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

On April 19, 2006, we issued an order to show cause why this appeal and cross-appeal should not be dismissed for lack of jurisdiction, because it appeared that the March 31, 2005 judgment was not substantively appealable as a final judgment. In their response,

respondents/cross-appellants concede that the district court has not entered any written judgment resolving their tort counterclaims, and they request that this court allow them to amend the judgment. Appellant/cross-respondent did not respond to our order to show cause.

The right to appeal is statutory; thus, where no statute or court rule provides for an appeal, no right to appeal exists.[1] NRAP 3A(b)(1) authorizes an appeal from a district court's final written order.[2] A final written order "disposes of all the issues 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."[3] As the March 31 judgment did not dispose of the punitive damages claims, it is not substantively appealable as a final judgment.

Because there is no final judgment, the April 29, 2005 order awarding attorney fees and costs to cross-appellants is interlocutory in nature, and there is no statute or court rule authorizing an appeal from

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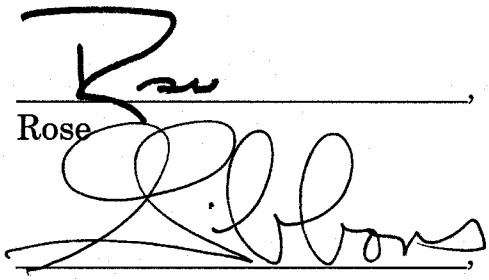
[1]Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984).

[2]Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000) (recognizing that whether a district court's decision is called an "order" or "judgment" is not determinative as to whether it may be appealed).

[3]Id. at 426, 996 P.2d at 417; see also Rust v. Clark Cty. School District, 103 Nev. 686, 747 P.2d 1380 (1987) (stating that an oral pronouncement of judgment is not valid for any purpose).

such order.[4] Consequently, as we lack jurisdiction over this matter, we dismiss this appeal and cross-appeal.

It is so ORDERED.[5]



_____, C.J.
Rose

_____, J.
Gibbons

_____, J.
Hardesty

cc: Hon. Douglas W. Herndon, District Judge
Lansford W. Levitt, Settlement Judge
William L. McGimsey
Kravitz, Schnitzer, Sloane, Johnson & Eberhardy, Chtd.
Clark County Clerk

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[4]See NRAP 3A(b); Taylor Constr., 100 Nev. 207, 678 P.2d 1152. We note, however, that interlocutory orders are appealable within the context of an appeal from a final judgment. Consolidated Generator v. Cummins Engine, 114 Nev. 1304, 1312, 971 P.2d 1251, 1256 (1998).

[5]In light of this order, we deny as moot the February 16, 2006 motion to dismiss the appeal and the April 20, 2006 motion to extend time to file the answering brief. We direct the clerk of this court to return unfiled the answering brief provisionally received on April 21, 2006, and the reply brief and appendix provisionally received on May 8, 2006.