

IN THE SUPREME COURT OF THE STATE OF NEVADA

SANDRA AINSWORTH AND REBECCA
SAWYER,
Appellants,
vs.
NEWMONT MINING CORPORATION,
Respondent.

No. 45681

FILED

JUN 29 2006

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

ORDER DISMISSING APPEAL

This is an appeal from a district court order granting summary judgment in an employment law matter. Sixth Judicial District Court, Humboldt County; Richard Wagner, Judge.

When our independent review of the docketing statement and the NRAP 3(e) documents revealed a potential jurisdictional defect, we ordered appellants to show cause why this appeal should not be dismissed for lack of jurisdiction. Specifically, it appeared that the district court had not entered a final written judgment adjudicating all of the parties' claims in the underlying matter, because the March 30, 2005 summary judgment order appealed from does not bear an NRCP 54(b) certification of finality, and appellants' docketing statement indicated that claims involving Jack

Ainsworth remain pending below.¹ Our show cause order noted that the supplement to appellants' docketing statement contained an August 16, 2005 district court order denying a motion to certify the March 30 summary judgment as final under NRCP 54(b). As a result, it appeared that the summary judgment order is not an appealable order, and therefore, that this court does not have jurisdiction over this appeal.

Both appellants and respondent timely responded to our show cause order. Appellants apparently concede that the district court has not entered a final written judgment in the underlying matter. They nevertheless argue that the district court abused its discretion in denying their motion to certify the March 30 summary judgment final as to them, under NRCP 54(b), and they request that this court review the district court's refusal to grant certification.

Whether an order is subject to NRCP 54(b) certification is within the district court's discretion.² In the absence of certification, the district court may revise an interlocutory order at any time before a final judgment is rendered.³ Accordingly, there exists no authority by which this court may review a district court order denying NRCP 54(b)

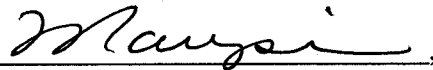
¹NRAP 3A(b)(1); see Lee v. GNLV Corp., 116 Nev. 424, 426, 996 P.2d 416, 417 (2000) (clarifying that "a final judgment is one that disposes of all the issues presented in the case, and leaves nothing for the future consideration of the court, except for post-judgment issues").


²See Borger v. Dist. Ct., 120 Nev. 1021, 1026 n.23, 102 P.3d 600, 603-04 n.23 (2004).

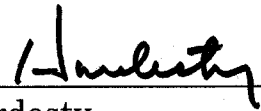
³NRCP 54(b); Rae v. All American Life & Cas. Co., 95 Nev. 920, 605 P.2d 196 (1979).

certification in the context of a purported appeal from an order as to which certification has been denied.⁴ Accordingly, as this court lacks jurisdiction, we

ORDER this appeal DISMISSED.


_____, J.
Maupin


_____, J.
Gibbons


_____, J.
Hardesty

cc: Hon. Richard Wagner, District Judge
Terry A. Simmons, Settlement Judge
Henry Egghart
Sherman & Howard, LLC
Kyle B. Swanson
Humboldt County Clerk

⁴Cf. Fernandez v. Infusaid Corp., 110 Nev. 187, 192, 871 P.2d 292, 295 (1994) (noting “that no statute or court rule authorizes an appeal from an order certifying an order as final pursuant to NRCP 54(b)”).