

IN THE SUPREME COURT OF THE STATE OF NEVADA

OPHTHALMIC ASSOCIATES, LLP;
KEVIN N. MILLER, M.D.; GRACE S.
SHIN, M.D.; EMILY L. FANT, M.D.;
AND TUSHINA A. REDDY, M.D.,
Appellants,

vs.

TRIPLE NET PROPERTIES, LLC,
SUCCESSOR-IN-INTEREST TO
WESTBAY, LLC,
Respondent.

OPHTHALMIC ASSOCIATES, LLP;
KEVIN N. MILLER, M.D.; GRACE S.
SHIN, M.D.; EMILY L. FANT, M.D.;
AND TUSHINA A. REDDY, M.D.,
Appellants,

vs.

TRIPLE NET PROPERTIES, LLC,
SUCCESSOR-IN-INTEREST TO
WESTBAY, LLC,
Respondent.

No. 46252

FILED

AUG 20 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *B. Smith*
DEPUTY CLERK

No. 46560

ORDER DISMISSING APPEAL IN DOCKET NO. 46252

These are consolidated appeals from a district court order entered after a bench trial in a lease dispute. Eighth Judicial District Court, Clark County; Jessie Elizabeth Walsh, Judge.

When our preliminary review of the docketing statement and the NRAP 3(e) documents revealed potential jurisdictional defects, we ordered appellants to show cause why these appeals should not be

dismissed for lack jurisdiction.¹ In our show cause order, we specifically noted that the October 5, 2005 order designated in appellants' notice of appeal in Docket No. 46252 did not appear to constitute the final judgment, adjudicating all parties' claims in this matter.² In particular, the October 5 order left unresolved respondent's claim for damages.

In response to our show cause order, appellants asserted that the November 2, 2005 order designated in their notice of appeal in Docket No. 46560 resolved respondent's claim for damages. According to appellants, the November 2 order awards attorney fees and costs as damages, resolving the only remaining claim. As the November 2 order resolved the only claim left unresolved by the October 5 order, it thus constitutes the final, appealable judgment in this matter.³ We subsequently entered an order allowing these consolidated appeals to proceed.⁴

Nevertheless, as noted, appellants designated the November 2 order in a notice of appeal docketed separately from the appeal in Docket No. 46252, in which appellants challenge the October 5 order. Thus,

¹Ophthalmic Assoc. v. Triple Net Properties, Docket No. 46252 (Order to Show Cause, August 29, 2006).

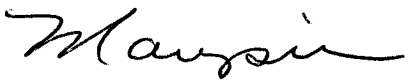
²Id.; see NRAP 3A(b)(1); Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000) (providing that a final judgment is one that disposes of all of the issues in the case and leaves nothing for the district court to resolve except for certain post-judgment issues).

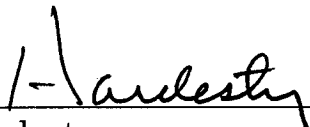
³See NRAP 3A(b)(1); Lee, 116 Nev. 424, 996 P.2d 416.


⁴Ophthalmic Assoc. v. Triple Net Properties, Docket No. 46252 (Order Allowing Appeals to Proceed, November 28, 2006).

although the November 2 order constitutes a final, appealable judgment,⁵ the October 5 judgment does not; the jurisdictional defect in Docket No. 46252 still exists. Accordingly, we dismiss the appeal in Docket No. 46252.⁶

It is so ORDERED.⁷


_____, C.J.
Maupin


_____, J.
Hardesty


_____, J.
Douglas

⁵See Lee, 116 Nev. 424, 996 P.2d 416.

⁶We note that, as the October 5 order arises from the same case as the November 2 final judgment, the October 5 order constitutes an interlocutory order that appellants may challenge in the context of their appeal from the final judgment in Docket No. 46560. See Consolidated Generator v. Cummins Engine, 114 Nev. 1304, 971 P.2d 1251 (1998).

⁷In light of this order we direct the clerk of this court to transfer the following documents, filed under Docket No. 46252, to Docket No. 46560: 1) the August 29, 2006 order to show cause; 2) appellants' September 28, 2006 response to our order to show cause; 3) the November 28, 2006 order allowing appeals to proceed; 4) appellants' opening brief filed on February 8, 2007; 5) the joint appendix filed that same day; 6) respondent's answering brief filed on March 14, 2007; 7) the appendix to the answering brief filed that same day; and 8) appellants' reply brief filed on May 17, 2007.

Thus, the parties' briefs need not be altered in light of this order, and the appeal in Docket No. 46560 is fully briefed.

cc: Hon. Jessie Elizabeth Walsh, District Judge
Richard F. Scotti, Settlement Judge
Lemons Grundy & Eisenberg
Martin & Allison, Ltd.
J.R. Albreghts, LLC
Eighth District Court Clerk