

IN THE SUPREME COURT OF THE STATE OF NEVADA

BILL MANKE,
Appellant,
vs.
L.A. PERKS PLUMBING AND
HEATING, INC.,
Respondent.

No. 46464

FILED

JAN 26 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

ORDER OF REMAND AND DISMISSING APPEAL

This is an appeal from the district court's October 6, 2005, "Judgment on Verdict," and its November 17, 2005, "Order Denying Motion for New Trial." Second Judicial District Court, Washoe County; Steven P. Elliott, Judge.

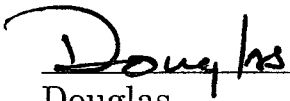
Appellant has filed a motion requesting this court to remand this matter to the district court so that it can "consider [appellant's] motion for a new trial on the merits." Appellant explains that the district court originally denied his motion for a new trial, holding that the motion was not timely filed. Appellant filed a motion for reconsideration of that order. On December 20, 2005, the district court entered an order granting appellant's motion for reconsideration.¹ In that order, the district court indicates that it denied appellant's motion for a new trial based on an error in calculating the timeliness of that motion. Accordingly, the district court has stated that it will hear the merits of appellant's motion for a new trial.

¹ A copy of that order is attached to appellant's motion for remand. Additionally, the district court clerk transmitted a copy of that order to this court on December 23, 2005.

Respondent has opposed the motion. Respondent notes that this case is assigned to this court's settlement program, and therefore the case should not be remanded at this time.

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

It is so ORDERED.²


_____, J.
Douglas


_____, J.
Becker


_____, J.
Parraguirre

cc: Hon. Steven P. Elliott, District Judge
Patrick O. King, Settlement Judge
Steven F. Bus
Mark H. Gunderson, Ltd.
Hardy Law Group
Washoe District Court Clerk

² In light of this order, we deny as moot appellant's "Motion to Stay Appellate Proceedings," and "Motion for Stay of Enforcement of Judgment."