


IN THE SUPREME COURT OF THE STATE OF NEVADA

KIMBERLY BASS-DAVIS,
Appellant,
vs.
KATHI DAVIS AND CHRISTOPHER E.
DAVIS,
Respondents.

No. 48376

FILED

MAR 07 2007

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

ORDER DISMISSING APPEAL

This is an appeal from an order denying appellant's motion to amend her complaint and to amend the caption by adding a previously dismissed party, 7-Eleven, Inc. The district court certified the order that is the subject of this appeal as final pursuant to NRCPC 54(b).

An order that resolves less than all of the claims or the rights and liabilities of all the parties in an action is not appealable as a final judgment absent proper NRCPC 54(b) certification by the district court.¹ An order can only be certified as final under NRCPC 54(b) if it completely removes at least one party from the action.²

¹See Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000); Rae v. All American Life & Cas. Co., 95 Nev. 920, 605 P.2d 196 (1979).

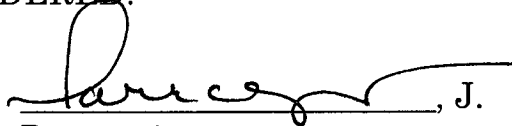
²See NRCPC 54(b) ("When multiple parties are involved, the court may direct the entry of a final judgment as to one or more but fewer than all of the parties only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment." (emphasis added)); Mallin v. Farmers Insurance Exchange, 106 Nev. 606, 797 P.2d 978 (1990) (NRCPC 54(b) certification is available in an action involving multiple parties only if the order completely resolves the action as to one or more, but fewer than all, of the multiple parties).

Respondents have moved to dismiss this appeal, arguing that this court lacks jurisdiction over it. Respondents point out that 7-Eleven (formerly known as Southland Corporation) was previously dismissed from the lawsuit below pursuant to appellant's stipulation. Respondents argue that the district court's NRCP 54(b) certification of the order denying the motion to amend the complaint and to amend the caption was improper as the order did not eliminate a party to the action because 7-Eleven was not a party to the lawsuit when the motion was denied.


Appellant opposes the motion to dismiss, arguing that the denial of her motion to amend the complaint and caption "constitutes a final adjudication of her rights to join 7-ELEVEN as a Defendant in this litigation" and therefore constitutes a final judgment amendable to NRCP 54(b) certification.

Respondents are correct. 7-Eleven was no longer a party to the action below when appellant moved to amend her complaint and to amend the caption, and therefore 7-Eleven was not *removed* from the action by the district court's order denying these motions. It therefore appears that the order was not properly certified as final pursuant to NRCP 54(b). Further, there appears to be no other basis for this court having jurisdiction over this appeal. Accordingly, we grant respondents' motion and we dismiss this appeal.

It is so ORDERED.


Parraguirre, J.


Hardesty, J.


Saitta, J.

cc: Honorable Timothy C. Williams, District Judge
Eugene Osko, Settlement Judge
Kirk-Hughes & Associates
Wilson, Elser, Moskowitz, Edelman & Dicker, LLP
Eighth District Court Clerk