

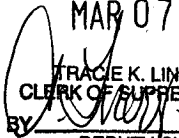
IN THE SUPREME COURT OF THE STATE OF NEVADA

RADIOLOGY SPECIALISTS, LTD., A
NEVADA CORPORATION,
Appellant,
vs.
DR. STEVEN E. HAKE, M.D.,
Respondent.

No. 48618

FILED

MAR 07 2008

TRACIE K. LINBEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order that enforced an accepted NRCP 68 offer of judgment. Eighth Judicial District Court, Clark County; Valorie Vega, Judge.

When our review of the documents before us revealed potential jurisdictional defects, we directed appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. In our show cause order, we noted that, ostensibly, the order designated in the notice of appeal was not independently appealable¹ and the district court had not entered a final written judgment adjudicating all the rights and liabilities of all the parties, from which an appeal may be taken.² Appellant timely

¹See KDI Sylvan Pools v. Workman, 107 Nev. 340, 343, 810 P.2d 1217, 1219 (1991) (noting that, generally, we will consider an appeal only when authorized by statute or court rule).

²See NRAP 3A(b)(1); Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000).

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responded to our show cause order, arguing that the district court's order constitutes a final, appealable judgment.³

Orders that finally resolve all the parties' rights and liabilities are appealable as final judgments under NRAP 3A(b)(1).⁴ Here, however, the district court's order did not finally resolve the matter below. Accordingly, because no final judgment has been entered, we lack jurisdiction over this appeal.

Under NRCP 68(d) and NRS 17.115(2), a matter in which an offer of judgment is accepted is formally resolved when, based on the parties' settlement, one of two things occurs: either (1) the court clerk enters a compromise settlement judgment, or (2) the court dismisses all parties' claims. In this case, the order merely states that the "Accepted Offer of Judgment in the amount of \$60,001.00 is hereby enforced." Accordingly, as the order neither formally enters judgment nor formally dismisses all parties' claims, it does not constitute a final judgment.⁵

³Since appellant argues only that the December 4 district court order constituted a final judgment appealable under NRAP 3A(b)(1), appellant apparently concedes that an appeal from a district court order enforcing an NRCP 68 settlement is not authorized under any other statute or court rule.

⁴See Lee, 116 Nev. 424, 996 P.2d 416.

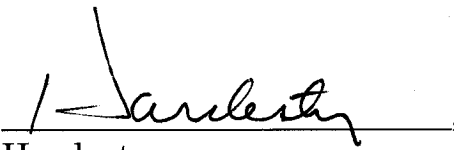
⁵See KDI Sylvan Pools, 107 Nev. at 342, 810 P.2d at 1219 (recognizing that, generally, all claims must be formally determined or dismissed before a matter becomes finally resolved); see also Valley Bank of Nevada v. Ginsburg, 110 Nev. 440, 874 P.2d 729 (1994) (explaining that an order approving a proposed settlement agreement does not constitute a final judgment). Although we look to an order's function to determine whether it constitutes a final judgment, *id.*, the district court docket entries, transmitted to this court under NRAP 3(e), support our conclusion

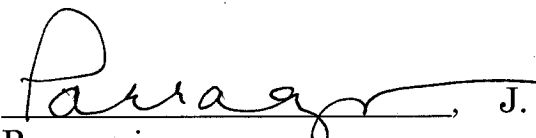
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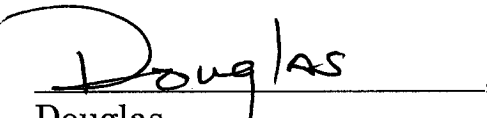
Indeed, although appellant argues that the order is final because nothing remains for the district court to resolve, there apparently remains at least one more act for the district court to perform: entering a formal judgment or an order dismissing the parties' claims under NRCP 68(d) and NRS 17.115(2).

Accordingly, as no final judgment has been entered, we lack jurisdiction, and therefore we

ORDER this appeal DISMISSED.


Hardesty, J.


Parraguirre, J.


Douglas, J.

cc: Hon. Valorie Vega, District Judge
Stephen E. Haberfeld, Settlement Judge
Kamer Zucker Abbott
Judd J. Balmer
Eighth District Court Clerk

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that, here, the district court's order did not operate as a final judgment, as the entries do not reflect that any "judgment" has been entered.