

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT PEOPLES AND MARLENA A.  
HOYT,  
Appellants,  
vs.  
SUMMERLIN HOSPITAL MEDICAL  
CENTER, LLC; LINDA BOUTROS  
RHIT; KANANI HOOPER; JENNIFER  
NELMS; AND SUNRISE HOSPITAL  
MEDICAL CENTER,  
Respondents.

No. 48895

FILED

MAY 14 2007

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a post-judgment district court order denying appellants' motions. Eighth Judicial District Court, Clark County; Jessie Elizabeth Walsh, Judge.

Our review of the documents before us reveals a jurisdictional defect. Specifically, the order appealed from is not substantively appealable. The right to appeal is statutory; if no statute or court rule provides for an appeal, no right to appeal exists.<sup>1</sup> No rule or statute authorizes an appeal from a post-judgment order denying a motion to dismiss and a motion for summary judgment, unless the order qualifies as a special order after final judgment.<sup>2</sup> A special order made after final judgment is one that affects the rights of some party to the action, growing out of the previous judgment.<sup>3</sup> An order that simply enforces a prior order

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<sup>1</sup>See Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984); Kokkos v. Tsalikis, 91 Nev. 24, 530 P.2d 756 (1975).

<sup>2</sup>See NRAP 3A(b)(2).

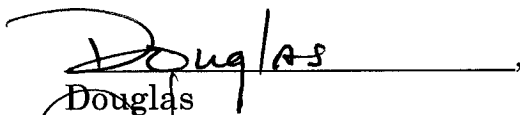
<sup>3</sup>Gumm v. Mainor, 118 Nev. 912, 59 P.3d 1220 (2002).

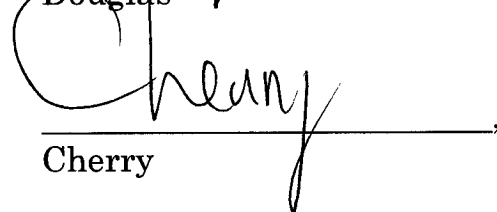
does not affect the rights of a party growing out of the final judgment, and is therefore not appealable as a special order made after final judgment.<sup>4</sup>

Also, to the extent appellants attempt to appeal from the final judgment, the appeal is untimely.<sup>5</sup> The final judgment was entered on June 16, 2006, and notice of the judgment's entry was served by mail on June 20, 2006. Thus, any notice of appeal was due no later than July 24, 2006.<sup>6</sup> Appellants' notice of appeal was not filed until February 7, 2007. Accordingly, as we lack jurisdiction, we

ORDER this appeal DISMISSED.<sup>7</sup>

  
Gibbons, J.

  
Douglas, J.

  
Cherry, J.

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<sup>4</sup>See id.

<sup>5</sup>See NRAP 4(a)(1).

<sup>6</sup>See NRAP 4(a)(1) (providing that the notice of appeal must be filed within thirty days from service of written notice of entry of the order appealed from); NRAP 26(c) (adding three days when service is by mail); NRAP 26(a) (stating that when the last day falls on a Sunday, the due date is the next judicial day). Here, the thirty-third day fell on Sunday, July 23, 2006; thus, the notice of appeal was due the following day.

<sup>7</sup>Appellants' failure to pay the filing fee constitutes an independent basis for dismissing this appeal.

cc: Hon. Jessie Elizabeth Walsh, District Judge  
Marlena A. Hoyt  
Robert Peoples  
Hall, Prangle & Schoonveld, LLC/Las Vegas  
Tuverson & McBride  
Eighth District Court Clerk