

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTERS OF THE ESTATE
AND TRUST OF ROSE MILLER,
DECEASED.

No. 48908

MARILYN BERKSON, AN
INDIVIDUAL AND GERTRUDE
MALACKY, AN INDIVIDUAL,
Appellants/Cross-Respondents,

vs.

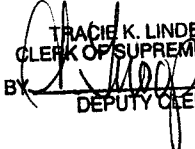
HOWARD BLOOM,
Respondent,

and

BARBARA LEPOME,
Respondent/Cross-Appellant.

FILED

FEB 25 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF REMAND


This is an appeal and cross-appeal from a district court order awarding attorney fees and costs. Eighth Judicial District Court, Clark County; Mark R. Denton, Judge.

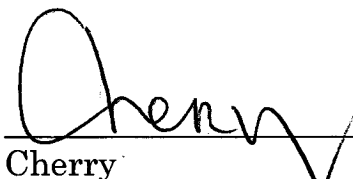
Appellants/cross-respondents Marilyn Berkson and Gertrude Malacky have filed a motion to remand this matter to the district court under the procedures outlined in Huneycutt v. Huneycutt.¹ The motion is supported by the district court's certification that it is inclined to grant Berkson and Malacky's motion to reconsider the attorney fees and costs award. Respondent Howard Bloom and respondent/cross-appellant Barbara LePome oppose the motion.

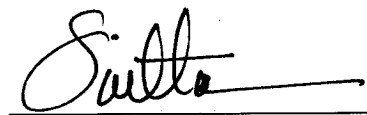
¹94 Nev. 79, 575 P.2d 585 (1978).

Having considered the motion, oppositions, and the district court's certification, we grant the motion. The procedures set forth in Huneycutt are intended to apply in circumstances where, as here, a party has filed a post-judgment motion and the district court is inclined to grant it but does not have jurisdiction to do so because a notice of appeal was filed.² Accordingly, we remand this matter to the district court.³

It is so ORDERED.⁴


_____, J.
Maupin


_____, J.
Cherry


_____, J.
Saitta

²See Smith v. Emery, 109 Nev. 737, 856 P.2d 1386 (1993) (reaffirming the procedures set forth in Huneycutt and indicating that a district court should certify to this court its inclination to grant relief in accordance with a party's motion for reconsideration of its decision being challenged on appeal).

³This order constitutes our final disposition in this matter. Any party aggrieved by the district court's order following remand may file a notice of appeal in accordance with NRAP 4(a), which will be docketed in this court as a new proceeding.

⁴We deny as moot LePome's motion to consolidate this appeal with any other appeals pending in this court.

On July 9, 2007, Bloom filed a "Response to Appellants['] Motion for Enlargement of Time to File Appellants' Opening Brief and Appendix"; appellants, however, never moved for an extension of time to file their opening brief. Regardless, in light of this order, any request for relief related to briefing is denied as moot.

cc: Hon. Mark R. Denton, District Judge
Bruce L. Gale
Cary Colt Payne
Richard E. Donaldson
Marquis & Aurbach
Trent, Tyrell & Associates
Eighth District Court Clerk