

IN THE SUPREME COURT OF THE STATE OF NEVADA

STATE OF NEVADA EX REL. BOARD
OF REGENTS OF THE NEVADA
SYSTEM OF HIGHER EDUCATION,
ERRONEOUSLY SUED AS UNLV
SCHOOL OF DENTAL MEDICINE;
AND DEAN KAREN WEST, D.M.D.,
Appellants,

vs.

DANIELLE MAFFEO, INDIVIDUALLY;
AND JAREMY LARSEN,
INDIVIDUALLY,
Respondents.

No. 50938

FILED

JAN 23 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order granting a petition for a temporary restraining order. Pursuant to the district court's order, respondents are allowed to participate as students at the University of Nevada School of Dental Medicine (dental school), including treating patients in the dental school's clinic, from January 22, 2008, until February 6, 2008. The district court has scheduled a hearing on appellants' motion for a preliminary injunction for February 5, 2008, at 1:00 p.m.

Appellants have filed an emergency motion to stay enforcement of the temporary restraining order pending this court's decision on the merits of this appeal.¹

¹This court has not yet received a certified copy of appellants' notice of appeal, which was filed in the district court on January 22, 2008.

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It appears that the order designated in appellants' notice of appeal is not substantively appealable.² This court has jurisdiction to consider an appeal only when the appeal is authorized by statute or court rule.³ No statute or rule authorizes an appeal from an order granting a petition for a temporary restraining order. Further, while we have held that an appeal may be taken from an order granting a temporary restraining order if the order's legal effect is the grant of an injunction,⁴ we note that in the instant matter the district court's order states that "the Temporary Restraining Order shall be in effect for fifteen (15) days from this date, January 22, 2008," and that the matter is scheduled for further hearing on February 5, 2008. Consequently, it appears that the order being appealed is a temporary restraining order, not an injunction.

Accordingly, as this court lacks jurisdiction to consider this appeal from the district court's temporary restraining order, we order this appeal dismissed and we deny appellants' motion for a stay. This

... continued

However, a file-stamped copy of the notice of appeal is appended to the motion for a stay.

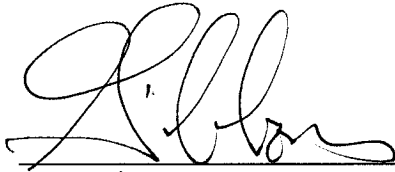
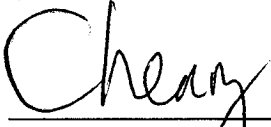

²See NRAP 3A(b).

³Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984).

⁴Sugarman Co. v. Morse Bros., 50 Nev. 191, 198-99, 255 P. 1010, 1012 (1927).

dismissal is without prejudice to appellants' right to file a petition for an extraordinary writ.⁵

It is so ORDERED.


_____, C.J.

_____, J.

_____, J.

cc: Hon. Kenneth C. Cory, District Judge
Susan M. Carrasco
Richard C. Linstrom
Fassett & Cardoza
Eighth District Court Clerk

⁵In the event appellants intend to file such a petition, we remind them that “[p]etitioners carry the burden of demonstrating that extraordinary relief is warranted.” Pan v. District Court, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). Therefore, any petition for extraordinary relief should strictly comply with the requirement of NRAP 21.