


IN THE SUPREME COURT OF THE STATE OF NEVADA

PAUL MURAD,
Appellant,
vs.
WEINGARTEN NOSTAT, INC.,
Respondent.

No. 51450

FILED

JAN 22 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING APPEAL
AND GRANTING MOTION TO WITHDRAW

This is an appeal from an order entering partial summary judgment in a breach of contract action. Our preliminary review of the docketing statement and documents submitted to this court pursuant to NRAP 3(e) revealed a potential jurisdictional defect. Specifically, it appeared that numerous claims remained pending in the consolidated cases below, and that this court therefore lacked jurisdiction over this appeal.¹ Accordingly, on November 24, 2008, this court entered an order directing appellant to show cause why this appeal should not be dismissed for lack of jurisdiction.

Appellant has now filed a response to our order to show cause in which he admits that the following claims remain pending below: (1) in case number A508287, respondent's claims for breach of covenant of good faith and fair dealing against Sergio Santoro, Mary Santoro, (not parties to this appeal) appellant and Steven Adamcik (not a party to this appeal),

¹See Mallin v. Farmers Insurance Exchange, 106 Nev. 606, 797 P.2d 978 (1990).

(2) in case number A508287, respondent's claims for breach of contract against Sergio Santoro and Mary Santoro, (3) in case number A526891, respondent's claims for breach of covenant of good faith and fair dealing against Sergio Santoro, Mary Santoro and appellant, and (4) in case number A526891, respondent's claims for breach of contract against Sergio Santoro and Mary Santoro. Respondent has filed a reply to appellant's response.

Appellant argues that respondent's claims against himself and Steven Adamcik were "substantively disposed of" when the district court entered its order granting respondent's motions for summary judgment on respondent's claims for breach of guarantee. However, as the district court has not entered an order specifically disposing of respondent's claims for breach of covenant of good faith and fair dealing, it appears these claims remain pending below.

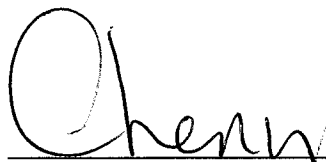
As for respondent's claims against Sergio Santoro and Mary Santoro, appellant asks for an extension of time to determine whether "the Santoros have completed all of their obligations with respect to [respondent]." Appellant's response fails to provide any proof that respondent's claims against Sergio Santoro and Mary Santoro have been resolved by the district court. Accordingly, it also appears that these claims remain pending below.


Finally, appellant's response fails to address appellant's pending cross-claims against Sergio Santoro and Mary Santoro for breach of contract and indemnification and contribution. Thus, it appears that these claims also remain pending in the district court.


Because numerous claims remain pending below, this appeal is premature.² Accordingly, this appeal is dismissed.³ This dismissal is without prejudice to any party's right to file a notice of appeal from a final judgment of the district court.⁴

Attorney Leslie Mark Stovall, on behalf of the Law Offices of Leslie Mark Stovall, has filed a motion to withdraw as counsel for appellant in which he cites appellant's "non payment of attorney fees." The motion was served on appellant by mail on November 14, 2008. To date, the motion is unopposed. Cause appearing, we grant the motion. See SCR 46; RPC 1.16(b)(5) and (6). The clerk shall remove Leslie Mark Stovall, Michael L. Mascarello, Jared B. Anderson and the Law Offices of Leslie Mark Stovall as counsel of record for appellant on this court's docket.

It is so ORDERED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

²See NRAP 4(a)(1).

³NRAP 4(a)(6)(this court may dismiss a premature appeal).

⁴Appellant's request for an extension of time to file a supplemental response is denied as moot.

cc: Hon. David Wall, District Judge
Bill C. Hammer, Settlement Judge
Law Offices of Leslie Mark Stovall
Kravitz, Schnitzer, Sloane, Johnson & Eberhardy, Chtd.
Eighth District Court Clerk
Paul Murad