

IN THE SUPREME COURT OF THE STATE OF NEVADA

GLENN R. WAITE, M.D.,  
Appellant,  
vs.  
HMC MEDICAL CENTER, LLC D/B/A  
HARMON MEDICAL CENTER, AND  
TIBI ELLIS,  
Respondents.

No. 51609

**FILED**

SEP 05 2008

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

ORDER OF REVERSAL AND REMAND

This is a proper person appeal from a district court order refusing to consider appellant's NRCP 60(b) motions for relief from judgment and amended motion to set aside the district court's order. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

On August 21, 2007, the district court entered an order granting respondents' motion to dismiss appellant Glenn Waite's complaint for failure to state a claim upon which relief can be granted under NRCP 12(b)(5). In a November 28, 2007, order the district court reaffirmed its August 21, 2007, decision and held that appellant's case had been dismissed with prejudice. The August 21, 2007, order does not state that Waite's complaint was dismissed with prejudice.

On January 9, 2008, Waite filed motions for relief under NRCP 60(b) from this amended judgment, as well as from the August 21, 2007, order. Waite then filed an amended motion to set aside the order filed on August 21, 2007, in which he withdrew his NRCP 60(b) motion as to the August 21, 2007, order, but asked to have the order set aside on other grounds. The district court refused to hear Waite's motions, stating

in the court minutes that under SFPP, L.P. v. District Court,<sup>1</sup> it lacked jurisdiction. Waite filed a motion on March 2, 2008, requesting that the district court vacate its oral ruling, or in the alternative, sign a written judgment determining the disputed jurisdictional issue. In an April 16, 2008, written order, the district court addressed the jurisdictional issue, holding that it did not have jurisdiction to hear Waite's motions, as Waite's complaint had been dismissed with prejudice. Therefore, under SFPP, the district court reasoned that it lost jurisdiction over the judgment once the order for dismissal with prejudice was entered and could not conduct any further proceedings unless it was properly set aside or vacated. Waite now appeals.

On June 13, 2008, this court entered an order directing respondents to show cause why the district court's order should not be summarily reversed. Respondents' response to the order to show cause was timely filed on July 16, 2008.

Having reviewed respondents' response and the district court's April 16, 2008, order, we conclude that the district court erred in its broad reading of SFPP. In SFPP, this court held that "once the district court dismissed [the] case with prejudice, it lost all jurisdiction concerning that judgment, except to alter, set aside, or vacate its judgment in conformity with the Nevada Rules of Civil Procedure."<sup>2</sup> We specifically pointed out that a timely motion to set aside a judgment under NRCP 60(b) could

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<sup>1</sup>123 Nev. \_\_\_, 173 P.3d 715 (2007).

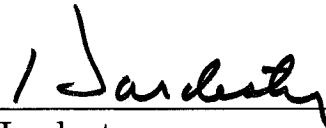
<sup>2</sup>Id. at \_\_\_, 173 P.3d at 715 (emphasis added).

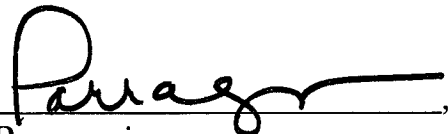
reopen the judgment.<sup>3</sup> Thus, the district court had jurisdiction to entertain Waite's motions and rule on their merits if they were filed in conformity with the Nevada Rules of Civil Procedure.

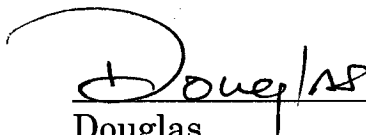
Accordingly, we

REVERSE the district court's April 18, 2008, order and we REMAND this matter to the district court for further proceedings consistent with this order.<sup>4</sup>

It is so ORDERED.

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Douglas

cc: Hon. Michelle Leavitt, District Judge  
Glenn R. Waite M.D.  
Chesnoff & Schonfeld  
Hutchison & Steffen, Ltd.  
Eighth District Court Clerk

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<sup>3</sup>Id. at \_\_\_, 173 P.3d at 717 (citing Greene v. District Court, 115 Nev. 391, 394-95, 990 P.2d 184, 186 (1999)).

<sup>4</sup>In light of this order, we deny as moot appellant's May 19, 2008, motion to file briefs.