

IN THE SUPREME COURT OF THE STATE OF NEVADA

DANIEL G. CHAPMAN, AN
INDIVIDUAL AND D/B/A CHAPMAN &
FLANAGAN, LTD.; AND SEAN P.
FLANAGAN, AN INDIVIDUAL AND
D/B/A CHAPMAN & FLANAGAN, LTD.,
Appellants,

vs.

RAINBOW CORPORATE CENTER, LP,
A NEVADA LIMITED PARTNERSHIP,
Respondent.

No. 52290

FILED

JUN 03 2009
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order denying appellants' motion for summary judgment and granting in part and denying in part respondent's motion for summary judgment and an order denying reconsideration of that order. Eighth Judicial District Court, Clark County; James M. Bixler, Judge.

Respondent has moved to dismiss this appeal, arguing that no final judgment has been entered in the underlying action, because the issue of respondent's damages remains pending below. Appellants concede that the issue of respondent's damages remains pending below, but nonetheless oppose the motion. They contend that the district court's ruling is actually a declaratory judgment, and is therefore final and appealable because it disposes of all of the issues presented by appellants motion for declaratory judgment, resolves all legal and factual questions regarding liability, and "effectively adjudicates all of the substantive rights of the parties." Having considered the parties' arguments, we conclude that we lack jurisdiction over this appeal, and we therefore grant respondent's motion to dismiss.

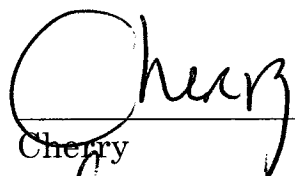
This court has held that a final judgment is one that “disposes of all the issues presented in the case, and leaves nothing for the future consideration of the court, except for post-judgment issues such as attorneys fees and costs.” Lee v. GNLV Corp., 116 Nev. 424, 426, 996 P.2d 416, 417 (2000). Here, both parties acknowledge that the issue of respondent’s damages remains unresolved, thus, no final judgment has been entered in the underlying action, and this court’s lacks jurisdiction to consider this appeal under NRAP 3A(b)(1).


Additionally, to the extent that appellants contend that the order denying their summary judgment motion and granting partial summary judgment to respondent is appealable as a declaratory judgment, that assertion lacks merit. Although NRS 30.030 provides that declaratory judgments shall have the force and effect of a final judgment or decree, even assuming that we were to construe this order as a declaratory judgment, any such judgment would not be independently appealable in the absence of a final judgment. See NRS 30.090 (providing that declaratory judgments “may be reviewed as other orders, judgments and decrees”). Thus, under the applicable Nevada Rules of Appellate Procedure, a declaratory judgment is appealable only when it constitutes a final judgment under NRAP 3A(b)(1) or meets one of the other rules allowing an appeal. See City of N. Las Vegas v. Dist. Ct., 122 Nev. 1197, 1203-04, 147 P.3d 1109, 1113-14 (2006) (interpreting a statute providing for appeals from orders granting or refusing to grant writs of mandamus as subject to Nevada’s appellate procedure rules concerning appealability); see also Williams v. Bromley, 622 A.2d 1171, 1172 (Me. 1993) (finding “no merit” to an argument that statutory language similar to that set forth in

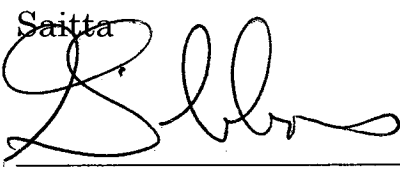
NRS 30.030 and NRS 30.090 provides an exception to Maine's general rule that a party may only appeal from a final judgment).

Accordingly, as no final judgment has been entered in this matter, we conclude that we lack jurisdiction over this appeal, and we

ORDER this appeal DISMISSED.

 _____, J.
Cherry

 _____, J.
Saitta

 _____, J.
Gibbons

cc: Hon. James M. Bixler, District Judge
M. Nelson Segel, Settlement Judge
Daniel G. Chapman
Sean P. Flanagan Esq.
Wilde Hansen, LLP
Eighth District Court Clerk