

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANNIE RYAN,
Appellant,
vs.
MATTHEW SAULS; ORBIS
GEOGRAPHICS, INC.; AND MATTHEW
RICHARD SAULS TRUST, MATTHEW
RICHARD SAULS, TRUSTEE,
Respondents.

No. 52368

FILED

MAR 10 2010

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

ORDER DISMISSING APPEAL

This is a proper person appeal from a district court judgment after a bench trial in a contract action, and from a post-judgment order denying a new trial motion. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

In the underlying matter, appellant, who was represented below, filed an answer to respondents Matthew Sauls and Orbis Geographics, Inc.'s complaint, along with counterclaims against those respondents. Appellant, through counsel, later filed a "Supplemental Counterclaim," asserting the same counterclaims against respondent Matthew Richard Sauls Trust, Matthew Richard Sauls, Trustee (the trust respondent). Although the trust respondent filed a motion to strike the supplemental pleading, the district court denied the motion, finding that appellant had properly substituted the trust respondent in place of a Doe defendant under NRCP 10(a).

After a bench trial, the district court found against Sauls and Orbis Geographics on their claims against appellant, and in favor of appellant on her counterclaims against Sauls and Orbis Geographics. The district court's judgment did not address appellant's counterclaims against

the trust respondent. The district court later denied appellant's motion for a new trial,¹ and appellant, who was represented by counsel at the time, appealed. In her docketing statement, appellant acknowledged that the claims against the trust respondent remained pending below, but she asserted that she presumed that the district court intended to award judgment in her favor on the counterclaims against the trust respondent, and that she had filed a motion for clarification, asking the district court to correct its judgment.²

In the district court, the trust respondent opposed the motion for clarification, asserting, among other things, that he never was served with the summons and complaint. Citing NRCP 17(a) and NRCP 9(a), appellant replied that, as the real party in interest, the trust respondent was properly served with the supplemental counterclaim, and the district court "confirmed [the trust respondent] as a named party counterdefendant" by denying the motion to strike the supplemental counterclaim. The court denied the motion for clarification, finding that it lacked jurisdiction to consider it because of the pending appeal.

¹The trust respondent is not addressed in the order denying the new trial motion.

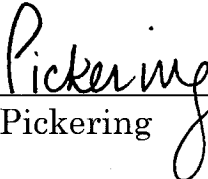
²Respondents filed a response to the docketing statement and a motion to dismiss, asserting that the appeal against the trust respondent should be dismissed because the trust respondent was not subject to the orders appellant challenges on appeal. Since this matter was in the settlement program at the time, this court denied the motion to dismiss without prejudice to respondents' right to renew it. Respondents did not renew the motion after this matter was removed from the settlement program.

This court has jurisdiction to consider an appeal only when the appeal is authorized by statute or court rule. Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984). Here, the district court has not entered a final, written judgment adjudicating the trust respondent's rights and liabilities, see Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000), and thus the challenged orders are not appealable under NRAP 3A(b)(1) and (2). Thus, because we lack jurisdiction to consider this appeal, we

ORDER this appeal DISMISSED.³


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. Janet J. Berry, District Judge
Carolyn Worrell, Settlement Judge
Annie Ryan
Parsons Behle & Latimer/Reno
Washoe District Court Clerk

³Any aggrieved party may file a timely notice of appeal after the district court enters a final, written order resolving the remaining counterclaims against the trust respondent.