

IN THE SUPREME COURT OF THE STATE OF NEVADA

LEE STEPHENS,  
Appellant,  
vs.  
DJR CONSTRUCTION, INC., A  
NEVADA CORPORATION,  
Respondent.

No. 52419

**FILED**

**MAY 08 2009**

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

ORDER DISMISSING APPEAL

This is an appeal from a district court judgment after a bench trial. Eighth Judicial District Court, Clark County; Timothy C. Williams, Judge.


In this case, respondent DJR Construction, Inc., filed counterclaims against appellant Lee Stephens for breach of contract and quantum meruit, seeking also to foreclose upon its mechanic's lien pursuant to NRS 108.239. The district court, in the judgment entered on August 11, 2008, and designated in Stephens' notice of appeal, found in favor of DJR on its counterclaims for breach of contract and quantum meruit. The judgment, however, did not address DJR's request to foreclose upon the mechanic's lien. Thus, because the August 11 judgment appeared to resolve fewer than all of the claims and issues between all of the parties in this action, the August 11 judgment ostensibly was not appealable as a final judgment. See Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000); Rae v. All American Life & Cas. Co., 95 Nev. 920, 605 P.2d 196 (1979). Accordingly, we ordered Stephens to show cause why this appeal should not be dismissed for lack of jurisdiction.

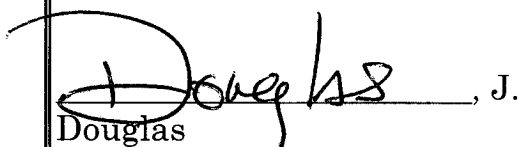
Stephens timely responded to our show cause order. In his response, Stephens maintains that the district court's August 11 judgment addressed each of the parties' claims and that no additional claim remains pending below. Specifically, Stephens notes that both parties presented

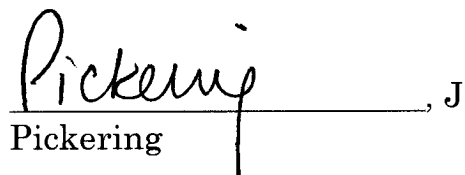
drafts of Findings of Facts and Conclusions of Law for the district court's consideration, each of which addressed the mechanic's lien issue differently. He then contends that the court merely "omitted" DJR's draft conclusions regarding foreclosure upon the mechanic's lien when it entered its August 11 judgment. Thus, it appears that Stephens is asserting that by not referencing DJR's proposed conclusions regarding foreclosing on its mechanic's lien, the district court implicitly rejected that request. Under these circumstances, however, we do not agree with Stephens' contentions.

Although the district court's judgment omitted DJR's proposed conclusions regarding the mechanics lien, the judgment also omitted any reference to Stephens' proposed conclusion that DJR's request for foreclosure upon the mechanic's lien should be dismissed with prejudice. Accordingly, nothing in the district court's judgment indicates whether the court rejected or accepted DJR's mechanic's lien foreclosure request. As such, the foreclosure request remains pending, and the district court's August 11 judgment is not final, inasmuch as it does not resolve all of the issues before the court. Because the judgment is not a final, appealable judgment, we conclude that this court lacks jurisdiction to consider this appeal. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 343, 810 P.2d 1217, 1219-20 (1991). Accordingly, we

ORDER this appeal dismissed.

  
Parraguirre, J.

  
Douglas, J.

  
Pickering, J.

cc: Hon. Timothy C. Williams, District Judge  
Stephen E. Haberfeld, Settlement Judge  
John Peter Lee Ltd.  
Law Offices of Leslie Mark Stovall  
Eighth District Court Clerk