

IN THE SUPREME COURT OF THE STATE OF NEVADA

No. 34747

JOHN NITTINGER; DALE ROEKER;
ROBERT MARTINEZ; COAST HOTELS AND
CASINOS, INC., F/K/A COAST
OPERATING COMPANY, AND GOLD COAST
HOTEL AND CASINO, A NEVADA LIMITED
PARTNERSHIP, D/B/A GOLD COAST
HOTEL AND CASINO; GAUGHAN-HERBST,
LIMITED, AND GAUGHAN-HERBST, INC.,
DISSOLVED AND MERGED INTO COAST
RESORTS, INC., A NEVADA
CORPORATION,

Appellants,

vs.

DEDRIC HOLMAN AND CHRISTINA
EDWARDS,

Respondents.

FILED

FEB 11 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL


This is an appeal from a final judgment in a tort action. Our preliminary review of the documents transmitted to this court pursuant to NRAP 3(e), and the docketing statement, reveals a jurisdictional defect. Specifically, the notice of appeal filed on August 26, 1999, was premature and failed to vest jurisdiction in this court.

The relevant facts are as follows. On July 26, 1999, the district court entered final judgment in favor of respondents, and notice of entry of judgment was served by delivery on July 27, 1999. On August 6, 1999, appellants timely moved for remittitur, a new trial pursuant to NRCP 59, or judgment notwithstanding the verdict pursuant to NRCP 50(b). Before the district court formally resolved these motions, appellants filed their notice of appeal on August 26, 1999, which was assigned Docket No. 34747. Subsequently, on September 23, 1999, the district court entered a written order denying the post-judgment motions. The same day, the court


also entered an amended final judgment. Appellants filed a new notice of appeal from all of the foregoing judgments and orders on September 30, 1999; this second appeal has been assigned Docket No. 34917.

A timely tolling motion filed in the district court suspends the time for filing a notice of appeal. See NRAP 4(a)(2). A motion for new trial under NRCP 59 and a motion for judgment notwithstanding the verdict under NRCP 50(b) are tolling motions pursuant to NRAP 4(a)(2). A notice of appeal filed before the formal disposition of these motions is of "no effect." See id.; Chapman Industries v. United Insurance, 110 Nev. 454, 457, 874 P.2d 739, 741 (1994). Accordingly, appellants' first notice of appeal, filed before the formal resolution of their tolling motions, was ineffective and failed to vest jurisdiction in this court. Appellants have cured the defect by filing the second notice of appeal (Docket No. 34917), and jurisdiction appears properly vested in that appeal. Because jurisdiction has not vested in the instant appeal, we hereby

ORDER this appeal dismissed.



Maupin J.



Shearing J.



Becker J.

cc: Hon. James A. Brennan, Senior District Judge
William F. Buchanan, Settlement Judge
Cook & Fitch
Beckley Singleton Jemison Cobeaga & List
Flangas Law Office
Clark County Clerk