

IN THE SUPREME COURT OF THE STATE OF NEVADA

MER SOLEIL, LLC, A NEVADA
LIMITED LIABILITY COMPANY AND
WILLIAM A. GAYLER, INDIVIDUALLY,
Appellants,
vs.
DIANE WILD, AN INDIVIDUAL,
Respondent.

No. 52702

FILED

JUL 23 2009

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

ORDER GRANTING MOTION IN PART
AND REMANDING

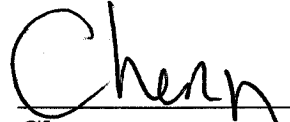
This is an appeal from a district court order granting respondent summary judgment against appellants.


After the notice of appeal was filed, the district court entered an order purporting to grant reconsideration of, and rescind, the portion of the summary judgment directed to appellant William A. Gayler and to deny reconsideration of the portion of the summary judgment concerning appellant Mer Soleil, LLC. Because jurisdiction over the summary judgment was vested in this court, however, on June 16, 2009, this court entered an order explaining that the district court lacked jurisdiction to rule on the motion for reconsideration, see Rust v. Clark Cty. School District, 103 Nev. 686, 688, 747 P.2d 1380, 1382 (1987), and construing the district court's order as one certifying that the court is inclined to grant relief from the final judgment. Appellants were given 15 days to file and serve any motion to remand this matter so that the district court could validly rule on their motion for reconsideration, in accordance with Huneycutt v. Huneycutt, 94 Nev. 79, 575 P.2d 585 (1978) (explaining that, if the district court is inclined to grant relief from a final judgment over which an appeal is pending, it should so certify, so that the parties can seek a remand from this court).


Appellants timely filed a motion for a limited Huneycutt remand, seeking a remand as to the portion of the summary judgment concerning Gayler, only, and proposing that Mer Soleil be allowed to proceed with its appeal, so that this court can resolve the “significant legal issue” involved therein. Respondent does not oppose appellants’ motion.

This matter cannot proceed as appellants suggest, however, because any district court order on remand rescinding summary judgment as to Gayler would impair the finality of the appealed judgment and, consequently, affect this court’s jurisdiction. See NRAP 3A(b)(1); Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000). Nonetheless, it appears that a remand is warranted. Accordingly, we grant the motion in part and remand this matter, in its entirety, to the district court, so that the court may validly rule on the motion for reconsideration and proceed accordingly.¹

It is so ORDERED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Susan Johnson, District Judge
Pengilly Robbins Slater
Flangas McMillan Law Group, Inc.
Eighth District Court Clerk

¹Nothing in this order precludes Mer Soleil from seeking, if appropriate, NRCP 54(b) certification of any summary judgment entered against it and, if certification is granted, filing a new notice of appeal from the certified order.