

IN THE SUPREME COURT OF THE STATE OF NEVADA

G & J UPDATE, LLC, A NEVADA LIMITED
LIABILITY COMPANY,

Appellant,

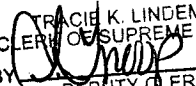
vs.

CORCOM, INC., A NEVADA
CORPORATION D/B/A DON BEST SPORTS,
Respondent.

No. 53569

FILED

JUN 30 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order finding appellant in contempt and imposing sanctions for violation of a preliminary injunction, certified as final under NRCP 54(b). Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.

On May 11, 2009, we issued an order to show cause why this appeal should not be dismissed for lack of jurisdiction, as the NRCP 54(b) certification appeared improper because the district court did not make an express determination that there is no just reason for delay, Aldabe v. Evans, 83 Nev. 135, 425 P.2d 598 (1967), and the order did not appear amenable to NRCP 54(b) certification because it appears that no party has been completely removed from the action. Mallin v. Farmers Insurance Exchange, 106 Nev. 606, 797 P.2d 978 (1990); Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984). Additionally, it appears that the order designated in the notice of appeal is not substantively appealable. See NRAP 3A(b). Appellant filed a timely response to the show cause order. Appellant has also filed an amended notice of appeal.

While appellant's response includes an amended certification order from the district court that makes the necessary determination that there is no just reason for delay, appellant's response fails to address the

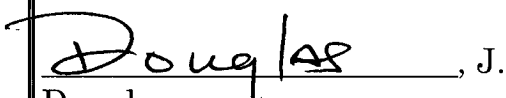


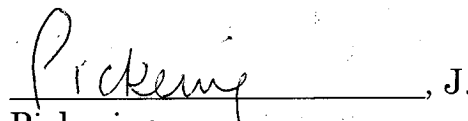
other jurisdictional defects noted in our show cause order. As no party is completely removed based on the contempt order, it cannot be certified as final under NRCP 54(b). Mallin, 106 Nev. 606, 797 P.2d 978; Taylor Constr. Co., 100 Nev. 207, 678 P.2d 1152. And as the order is not independently appealable, Pengilly v. Rancho Santa Fe Homeowners, 116 Nev. 646, 649, 5 P.3d 569, 571 (2000), we lack jurisdiction over this appeal.

Respondent has filed a motion to dismiss the appeal, based on the same jurisdictional defects discussed above. As we lack jurisdiction over this appeal, we grant respondent's motion. We deny, however, respondent's request for attorney fees and costs under NRAP 38. Respondent is entitled to taxable costs under NRAP 39 if respondent timely submits the required bill of costs, although it is unclear what taxable costs respondent has incurred since briefing had not commenced prior to this dismissal. NRAP 39(c). Accordingly, we

ORDER this appeal DISMISSED.¹


Parraguirre


Douglas


Pickering

¹In light of our dismissal of this appeal, we deny as moot appellant's motion requesting a determination of the district court's jurisdiction pending the appeal.

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Robert F. Saint-Aubin, Settlement Judge
Kajioka & Associates
Gordon & Silver, Ltd.
Eighth District Court Clerk