

IN THE SUPREME COURT OF THE STATE OF NEVADA

CLARA M. CALHOON,

Appellant,

vs.

VALLEY ROCK AND SAND AND THE UNITY
TRUST,

Respondents.

No. 34860

FILED

DEC 12 2000

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

ORDER DISMISSING APPEAL

This is an appeal from a summary judgment rendered against appellant in a real estate matter. Our preliminary review of the documents submitted to this court pursuant to NRAP 3(e) revealed a potential jurisdictional defect. Specifically, the notice of appeal appeared to be prematurely filed under NRAP 4(a) because it appeared that at the time appellant filed her notice of appeal, the district court had not entered a final written judgment adjudicating all the rights and liabilities of all the parties. See *Rae v. All American Life & Cas. Co.*, 95 Nev. 920, 605 P.2d 196 (1979).

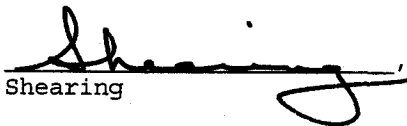
On August 30, 1999, the district court entered summary judgment in favor of respondents. The notice of entry of the judgment was served by mail on September 1, 1999. Appellant filed a notice of appeal on September 10, 1999. However, the summary judgment did not resolve claims filed against and by one of the parties in the action, Harry Searles. Appellant indicated in her docketing statement that Searles remained as a defendant in the action at the time the district court entered the summary judgment, but was later dismissed. On June 7, 2000, the district court entered an order, pursuant to a stipulation, dismissing respondents' claims against Searles and Searles' counterclaim against respondents. The notice of entry of this order was served by

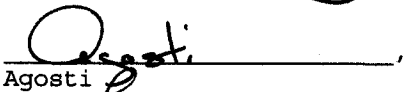
mail on June 22, 2000. Appellant did not file a subsequent or amended notice of appeal. On September 12, 2000, respondents filed a motion to dismiss appellant's appeal, contending that the August 30, 1999, judgment was not a final judgment, and thus, appellant's notice of appeal was prematurely filed. Appellant did not file a response to the motion.

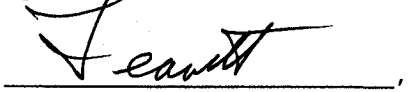
In addition, appellant noted in her docketing statement that American Concrete Inc., Fred Kuhn, Billy Kuhn, Larry Kuhn, and Billy Kuhn and Sons Construction, parties to the action in the district court, were dismissed from the action. However, there is no documentation before this court establishing that the claims involving these parties were resolved.

As the August 30, 1999, judgment from which appellant appealed did not appear to be a final written judgment adjudicating all the rights and liabilities of all the parties, it appeared that we lacked jurisdiction over this appeal. Consequently, on October 9, 2000, we ordered appellant to show cause why her appeal should not be dismissed for lack of jurisdiction. We afforded appellant thirty (30) days to respond to our order and cautioned her that failure to do so would result in our dismissal of this appeal. To date, appellant has failed to respond to our October 9, 2000, order. Accordingly, we grant respondents' motion and

ORDER this appeal dismissed.


Shearing J.


Agosti J.


Leavitt J.

cc: Hon. John P. Davis, District Judge
Lansford W. Levitt, Settlement Judge
Dwight E. Duncan
Wanderer & Wanderer
Nye County Clerk