

IN THE SUPREME COURT OF THE STATE OF NEVADA

SIMMONS SELF-STORAGE PARTNERS, LLC, A NEVADA LIMITED LIABILITY COMPANY; ANTHEM MINI-STORAGE, LLC, A NEVADA LIMITED LIABILITY COMPANY; HORIZON MINI-STORAGE, LLC, A NEVADA LIMITED LIABILITY COMPANY; MONTECITO MINI-STORAGE PARTNERS, LLC, A NEVADA LIMITED LIABILITY COMPANY; LAKE MEAD PROPERTY, LLC, A NEVADA LIMITED LIABILITY COMPANY; SILVER CREEK I, LLC, A NEVADA LIMITED LIABILITY COMPANY; COLONIAL BANK, A SUBSIDIARY OF THE COLONIAL BANCGROUP, INC., A DELAWARE CORPORATION; SOUTHWEST STEEL SYSTEMS, LLC A/K/A SOUTHWEST STEEL, A NEVADA LIMITED LIABILITY COMPANY; SOUTHWEST STEEL ERECTORS, LLC D/B/A SWS ERECTORS A/K/A SOUTHWEST STEEL, A NEVADA LIMITED LIABILITY COMPANY; WESTAR DEVELOPMENT CORPORATION D/B/A WESTAR CONSTRUCTION, A NEVADA CORPORATION; CONTINENTAL CASUALTY COMPANY, A DELAWARE CORPORATION; AND WESTERN SURETY COMPANY,

Appellants,

vs.

RIB ROOF, INC., A CALIFORNIA CORPORATION,
Respondent.

No. 53824

FILED

APR 09 2010

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

ORDER DISMISSING APPEAL

This is an appeal from a district court amended judgment in consolidated contract cases. Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

On December 23, 2009, this court entered an order directing appellants to show cause why this appeal should not be dismissed for lack

of jurisdiction. Our December 23 order pointed out that the order appellants designated in their notice of appeal did not appear to constitute an appealable final judgment, as appellants failed to provide this court with copies of district court orders resolving all of the claims below. See NRAP 3A(b)(1); Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000). Appellants have filed a response to our show cause order. Respondent has filed a reply.

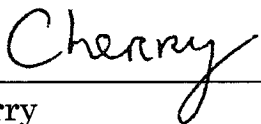
Appellants' response includes copies of the parties' stipulations addressing several claims in the underlying consolidated district court cases. For example, our show cause order noted that it appeared that respondent's claims against defendants Queensridge Mini Storage, LLC, and Sundance Builders, LLC, and Queensridge's and Sundance's cross-claims against defendant WestCor Construction remained pending. In their response, appellants include a copy of those parties' stipulation to dismiss the claims pending between them, apparently to demonstrate that the claims have been finally resolved. But the stipulation is ineffective until it is "signed by all parties who have appeared in the action" and filed, NRCP 41(a)(1), and appellants acknowledge that the parties' stipulation has not been signed by all parties who have appeared in the action and filed.

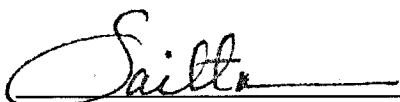
Similarly, our show cause order noted that certain appellants' cross-claims against appellant Southwest Steel Systems appeared to remain pending. In response to that jurisdictional concern, appellants attached a document entitled "Voluntary Dismissal," which purports to dismiss the cross-claims against Southwest Steel Systems. But, as before, the voluntary dismissal has not been signed by all of the parties who have appeared in the action and filed, and thus, it is ineffective. NRCP 41(a)(1).


Finally, our show cause order noted that claims asserted in a third-party complaint against an individual named Tom Carrol appeared to remain pending. In response, appellants note that the claims are subject to an automatic stay pursuant to Carrol's petition for relief under Chapter 7 of the bankruptcy code. 11 U.S.C. § 362(a)(1) (2006). But an automatic stay of the claims related to Carrol does not finally resolve those claims.

Accordingly, as claims remain pending, absent any proper NRCP 54(b) certification, the challenged order does not constitute a final judgment. Since this court lacks jurisdiction, we

ORDER this appeal DISMISSED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Susan Johnson, District Judge
Ara H. Shirinian, Settlement Judge
Shumway Van & Hansen
Snell & Wilmer, LLP/Las Vegas
Eighth District Court Clerk