

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEPHEN E. DIETRICH,  
Appellant,  
vs.  
CATHOLIC HEALTHCARE WEST, INC.  
F/K/A SAINT MARY'S REGIONAL  
MEDICAL CENTER, A CALIFORNIA  
CORPORATION,  
Respondent.

No. 53873

**FILED**

NOV 06 2009

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court judgment on a jury verdict in a medical malpractice case. Eighth Judicial District Court, Clark County; Linda Marie Bell, Judge.

When this appeal was docketed on May 27, 2009, this court issued two notices to appellant, giving him ten days to pay the filing fee and file the case appeal statement. Although he thereafter timely paid the filing fee, he failed to file the case appeal statement, despite respondent's June 24, 2009, response to the docketing statement pointing out that the case appeal statement had not been filed. Consequently, on July 27, 2009, a \$200 sanction was imposed, and appellant was given another 15 days to file the case appeal statement. Although appellant's counsel timely filed proof of the \$200 sanction's payment, appellant failed to file the case appeal statement in this court as directed. Meanwhile, a notice was issued informing appellant that his transcript request form or certificate of no transcript request was past due, and respondent filed a motion to dismiss based on appellant's derelictions. Appellant filed an untimely opposition to the motion.

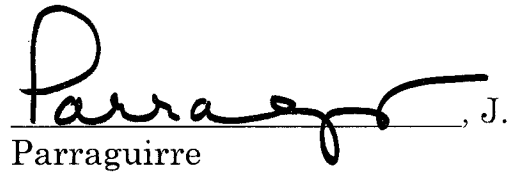
In an order dated September 9, 2009, we waived the NRAP 9 transcript request requirement and declined to dismiss the appeal at that time. We also noted, however, that appellant's counsel's failure to timely comply with this court's rules and directives had hindered the efficient processing of this appeal for both this court and respondent, and we ordered appellant to pay \$500 to respondent's counsel and to provide this court with proof of the \$500 sanction's payment within 15 days. Within that same time period, appellant was to file the case appeal statement, and counsel was warned that failure to comply with the September 9 order would result in the dismissal of this appeal.

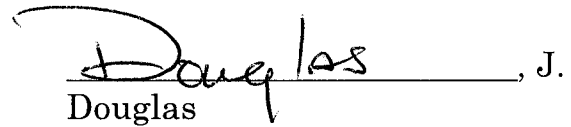
While appellant has filed the case appeal statement, to date, counsel has not provided this court with proof of the \$500 sanction's payment. Further, appellant has not filed his opening brief, which was due by September 29, 2009. Pointing to those facts, on October 8, 2009, respondent's counsel filed another motion to dismiss, noting that while he had received payment of the \$500 sanction, counsel nonetheless failed to comply with this court's September 9 order by providing proof of payment to this court. At the same time, respondent opposed appellant's motion for a 30-day extension of time to file the opening brief, a motion that was not filed in this court until October 19, 2009, well after the brief was due. In appellant's motion, counsel asserts that good cause for extending the deadline exists because his merger with another law firm "slowed work production and required orientation and training of new employees, as well as re-delegation of work." Appellant has not filed an opposition to respondent's motion to dismiss.

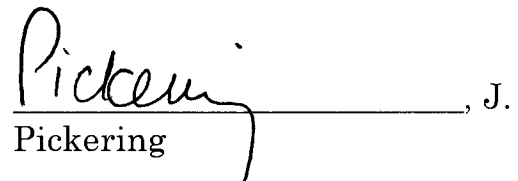
Although counsel apparently paid the \$500 sanction, he failed to fully comply with our September 9 order. Further, NRAP 31(c)

provides that appeals may be dismissed for failure to timely file an opening brief. In light of this appeal's problematic procedural history, we conclude that appellant has failed to demonstrate good cause to extend the deadline for filing the opening brief. Therefore, we grant respondent's motion and

ORDER this appeal DISMISSED.

 \_\_\_\_\_, J.  
Parraguirre

 \_\_\_\_\_, J.  
Douglas

 \_\_\_\_\_, J.  
Pickering

cc: Hon. Linda Marie Bell, District Judge  
William C. Turner, Settlement Judge  
Law Offices of James J. Lee  
Alverson Taylor Mortensen & Sanders  
Eighth District Court Clerk