

IN THE SUPREME COURT OF THE STATE OF NEVADA

CARLOS LOPEZ, DERIVATIVELY AS A
STOCKHOLDER ON BEHALF OF THE
CARSTAN CORPORATION, A NEVADA
CORPORATION,

Appellant,

vs.

G. STANMORE RASMUSSEN, AN
INDIVIDUAL,
Respondent.

No. 54325

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 June 17, 2009, post-judgment order awarding costs. Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

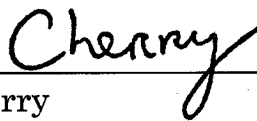
When our preliminary review of the docketing statement and the NRAP 3(g) documents revealed a potential jurisdictional defect, we ordered appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. Specifically, it appeared that the August 10, 2009, notice of appeal was untimely filed. See NRAP 4(a)(1).

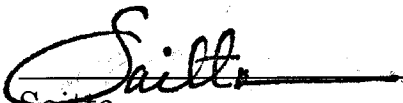
Appellant timely responded, asserting that the notice of entry's certificate of service was incorrectly dated, and that, as reflected in an amended affidavit of mailing, the notice of entry was actually served on July 6, 2009. Respondent filed a reply, as permitted, not disputing the July 6 service date but pointing out that the appeal was not filed within 30 days of July 6 and that, under NRAP 26(c), three additional days are not allowed when appellant is the party who served the notice of entry, since appellant had the notice of entry as of the service date. See NRAP 26(c) (providing that "3 calendar days are added to the prescribed period [when


the notice of entry is mailed] unless the paper is delivered on the date of service stated in the proof of service”).

As appellant is the party who served notice of entry, appellant cannot take advantage of NRAP 26(c). Accordingly, the August 10, 2009, notice of appeal is untimely, and as we thus lack jurisdiction, we

ORDER this appeal DISMISSED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Brent T. Adams, District Judge
Robert G. Berry, Settlement Judge
Holland & Hart LLP/Reno
Lemons, Grundy & Eisenberg
Washoe District Court Clerk