

IN THE SUPREME COURT OF THE STATE OF NEVADA

NANCY QUON, A PROFESSIONAL CORPORATION, A NEVADA CORPORATION D/B/A QUON BRUCE CHRISTENSEN LAW FIRM; AND NANCY QUON, INDIVIDUALLY, D/B/A QUON BRUCE CHRISTENSEN LAW FIRM,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK, AND THE HONORABLE MARK R. DENTON, DISTRICT JUDGE,

Respondents,

and

SMS FINANCIAL, LLC,
Real Party in Interest.

No. 56217

FILED

DEC 21 2010

TRACE K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER GRANTING PETITION FOR WRIT OF PROHIBITION

This original petition for a writ of mandamus or prohibition challenges a district court contempt order in a contract action.


Petitioners filed this writ petition challenging the June 4, 2010, contempt order on the basis that under SFPP, L.P. v. District Court, 123 Nev. 608, 173 P.3d 715 (2007), the district court lost jurisdiction to enforce a settlement agreement after entering a July 2009 order stating that the underlying action “shall be dismissed.” As directed by this court, real party in interest filed an answer, in which it contends that this case is distinguishable from SFPP and that the district court’s dismissal order contained in futuro language and was entered only after the parties had

stipulated in open court, at a May 5, 2009, hearing, that the court would maintain jurisdiction over their settlement agreement.


Having considered the petition, answer, and appendices, we conclude that the July 2009 order operated as a dismissal with prejudice of the underlying action, that dismissal “was effectuated automatically upon the filing of the signed order,” and that the order constituted a final judgment that could not be reopened except under a timely motion to set aside the dismissal order. Id. at 612, 173 P.3d at 718. As no motion to set aside the judgment was filed in this case, the district court lacked jurisdiction to enter the March 24, 2010, order enforcing the settlement agreement, upon which the challenged contempt order was thereafter based. See id. at 612, 173 P.3d at 717 (noting that a new civil complaint must be filed to enforce new causes of action for purported violations of a settlement agreement); see also Greene v. Dist. Ct., 115 Nev. 391, 395, 990 P.2d 184, 186 (1999) (concluding that the district court lacked jurisdiction to allow amendment of a complaint after final judgment was entered and noting that, in a garnishment or attachment context, the judgment creditor must file a separate action against a third party possessing a judgment debtor’s property, unless the possessor acquiesces to the judgment creditor’s claim). As the March 2010 order was issued without jurisdiction and was thus void, the June 2010 contempt order was likewise void and invalid. Cf. NRS 22.010(3) (allowing a contempt order to be issued for disobedience to any “lawful” order). Accordingly, we conclude that petitioners have met their burden of demonstrating that our intervention for extraordinary writ relief is warranted, Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004), and we grant the petition for a writ of prohibition to arrest the district court’s proceedings taken without

or in excess of its jurisdiction. NRS 34.320; Wardleigh v. District Court, 111 Nev. 345, 350, 891 P.2d 1180, 1183 (1995). The clerk of this court shall issue a writ of prohibition preventing the district court from taking any further action in the underlying case to enforce the parties' settlement agreement or to impose contempt sanctions.

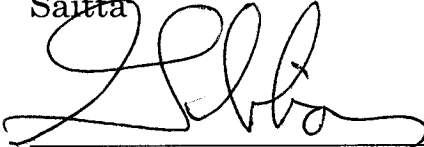
It is so ORDERED.¹

 _____, J.

Cherry

 _____, J.

Saitta

 _____, J.

Gibbons

cc: Hon. Mark R. Denton, District Judge
Holland & Hart LLP/Las Vegas
Gordon & Silver, Ltd.
Eighth District Court Clerk

¹In light of this order, we need not consider the parties' remaining arguments and deny petitioners' alternative request for a writ of mandamus.