

IN THE SUPREME COURT OF THE STATE OF NEVADA

GOEBEL FIXTURE COMPANY,
Appellant,
vs.
JOHN L. BAKER,
Respondent.

No. 56998

FILED

APR 12 2011

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

ORDER GRANTING MOTION TO DISMISS AND REMANDING

This is an appeal from a district court order granting judicial review. On March 7, 2011, this court entered an order directing appellant to show cause why this appeal should not be remanded to the district court pursuant to Huneycutt v. Huneycutt, 94 Nev. 79, 575 P.2d 585 (1978), disapproved on other grounds by Foster v. Dingwall, 126 Nev. ___, 228 P.3d 453 (2010), and ultimately dismissed. Specifically, our order noted that it appeared that during the pendency of this appeal, the district court issued an order certifying that it is inclined to grant appellant's NRCP 60(b) motion for relief from judgment and that remand was thus appropriate. Huneycutt, 94 Nev. at 80, 575 P.2d at 585 (recognizing that a "district court has no authority to grant [relief from judgment] once the notice of appeal has been filed. It may, however, hear the motion, and certify that it is inclined to grant it. At that juncture remand would be appropriate" (internal quotations omitted)).

Appellant has now filed a motion for remand to the district court and dismissal of this appeal pursuant to Foster v. Dingwall, 126 Nev. ___, ___, 228 P.3d 453, 455 (2010) (holding that if the Huneycutt factors are met, "it would be appropriate for the moving party to file a motion . . . with this court seeking a remand to the district court for entry

of an order granting the requested relief"). Respondent, in proper person, opposes the motion.¹ We grant appellant's motion for remand and dismissal. Accordingly, we remand this matter to the district court pursuant to its certification, and we dismiss this appeal.²

It is so ORDERED.

Cherry, J.
Cherry

Gibbons, J.
Gibbons

Pickering, J.
Pickering

cc: Hon. Timothy C. Williams, District Judge
Thorndal Armstrong Delk Balkenbush & Eisinger/Reno
John L. Baker
Eighth District Court Clerk

¹We direct the clerk of this court to file respondent's (1) "Rebutting of the Notice to File Opening Brief Notice and Requesting an Immediate Dismissal of Above Name Case," provisionally received on March 7, 2011; and (2) his opposition to appellant's motion for remand, provisionally received on March 28, 2011.

²All pending motions in this matter are denied as moot.