

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHEYENNE APARTMENTS PPG, LP, A
NEVADA LIMITED PARTNERSHIP,
Appellant,
vs.
THE STATE OF NEVADA
DEPARTMENT OF TRANSPORTATION,
Respondent.

No. 57319

FILED

SEP 29 2011

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

ORDER GRANTING MOTION TO DISMISS

This is an appeal from a district court injunctive order requiring appellant to make settlement payments on behalf of respondent to plaintiffs in the district court action. Eighth Judicial District Court, Clark County; Doug Smith, Judge.


Respondent has filed a motion to dismiss the appeal as moot on the basis that the district court has now granted respondent's motion for good faith settlement and respondent has agreed to pay the plaintiffs directly. Having considered the parties' arguments, we conclude that respondent's agreement to pay the plaintiffs directly has rendered moot appellant's obligation to make the settlement payments on respondent's behalf pursuant to the district court's order before us on appeal.¹ See

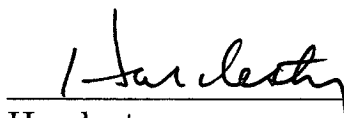
¹To the extent that the district court's order declined to reconsider its previous order granting respondent's motion for declaratory judgment, orders denying reconsideration are generally not appealable. See Alvis v. State, Gaming Control Bd., 99 Nev. 184, 660 P.2d 980 (1983), disapproved on other grounds by AA Primo Builders v. Washington, 126 Nev. ___, 245 P.3d 1190 (2010). Additionally, the portion of the district court's order requiring appellant to provide respondent with independent legal counsel was neither a final judgment, see Lee v. GNLV Corp., 116 Nev. 424, 426, 996 P.2d 416, 417 (2000) (defining a final judgment as "one that disposes of all the issues presented in the case, and leaves nothing for the future consideration of the court, except for post-judgment issues such as attorney's fees and costs"), nor an injunctive order, see NRCP 65 (setting

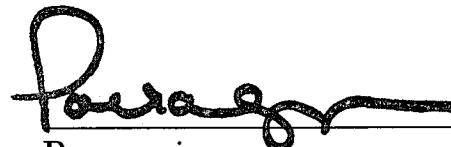
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Personhood Nevada v. Bristol, 126 Nev. ___, ___, 245 P.3d 572, 574 (2010) (explaining that this court's duty is to decide actual controversies and not to give opinions on moot questions). Accordingly, we conclude that dismissal on mootness grounds is warranted, and we therefore

ORDER this appeal DISMISSED.²


_____, C.J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Doug Smith, District Judge
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas
Attorney General/Las Vegas
Eighth District Court Clerk

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forth the requirements for an injunctive order), and thus, that portion of the order was also not appealable. See Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 209, 678 P.2d 1152, 1153 (1984) (recognizing that an appeal may only be taken when authorized by a statute or rule); NRAP 3A(b)(1), (3) (providing for appeals from final judgments and from injunctive orders).

²We do not believe that it is necessary to vacate the district court's order, as that order is not entitled to any preclusive effect in future litigation. See Personhood, 126 Nev. at ___, 245 P.3d at 576 (explaining that "when an appeal is dismissed as moot by no fault of the appellant, the lower court's determination of an issue in the matter will have no preclusive effect in future litigation"). Additionally, we decline respondent's request for guidance on how it should seek to enforce the declaratory judgment, as the declaratory judgment is not before us in this appeal.