

IN THE SUPREME COURT OF THE STATE OF NEVADA

TOMARCO CONTRACTOR  
SPECIALTIES, INC., D/B/A TOMARCO  
FASTENING SYSTEMS,

Appellant,

vs.

DAVID K. HAASE,

Respondent.

No. 35267

**FILED**

OCT 22 2001

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY   
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of the district court and an order granting attorney fees and costs. When our preliminary review of the documents before us revealed a potential jurisdictional defect, not identified by respondent's motion to dismiss, we ordered appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. Specifically, it appeared that the district court had not formally resolved cross-claims against an entity listed in the docketing statement as "Veldon Simpson Architect" and thus may not have entered a final, appealable judgment. We therefore directed appellant to demonstrate that the cross-claims against Veldon Simpson Architect were formally resolved by the district court, or that Veldon Simpson Architect was never made a party to the proceedings below.<sup>1</sup>

Appellant filed a response to our order, in which it states that it has not been able to determine, based on the district court's Internet records and conversations with other counsel, whether Veldon Simpson Architect was served with the cross-claims. Respondent, for his part, maintains that no entity named "Veldon Simpson Architect" exists, and that Veldon Simpson was unavailable for service individually because he was out of the country. Additionally, respondent states that Veldon

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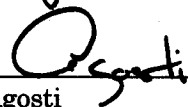
<sup>1</sup>See KDI Sylvan Pools v. Workman, 107 Nev. 340, 810 P.2d 1217 (1991) (noting that fact that counterclaims may not be pursued does not render them moot or formally dismissed); Rae v. All American Life & Cas. Co., 95 Nev. 920, 605 P.2d 196 (1979) (recognizing that a "party" for purposes of a final judgment is one that has been served).

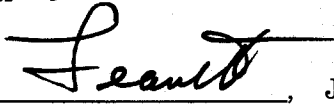
Simpson Architect, Inc., was a revoked Nevada Corporation as of April 1, 1996, and its registered agent no longer accepted service of process as of that date.<sup>2</sup>

Although respondent suggests that "Veldon Simpson Architect" was not served with process, we have previously recognized that the burden of establishing our jurisdiction on appeal "rests squarely upon the shoulders of a party seeking to invoke our jurisdiction."<sup>3</sup> Here, appellant has failed to demonstrate that we have jurisdiction of this appeal, despite having been given an opportunity to do so. Accordingly, we

ORDER this appeal DISMISSED.<sup>4</sup>

  
\_\_\_\_\_, J.  
Young

  
\_\_\_\_\_, J.  
Agosti

  
\_\_\_\_\_, J.  
Leavitt

cc: Hon. Valorie Vega, District Judge  
Michael H. Singer, Settlement Judge  
Rawlings Olson Cannon Gormley & Desruisseaux  
Dowling, Myers & Helm, LLP  
Clark County Clerk

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<sup>2</sup>We grant respondent's August 14, 2001 motion to file a reply and direct the clerk of this court to file the proposed reply.

<sup>3</sup>Moran v. Bonneville Square Assocs., 117 Nev. \_\_, \_\_, 25 P.3d 898, 899 (2001).

<sup>4</sup>We deny as moot respondent's March 22, 2001 motion to dismiss this appeal and respondent's April 9, 2001 motion to file a reply in support of his motion.