IN THE SUPREME COURT OF THE STATE OF NEVADA

JEFFREY REIMER, AND WESTERN COLORPRINT, INC., A NEVADA CORPORATION, Appellants/Cross-Respondents, vs. CRYSTAL TOWER CONDOMINIUM ASSOCIATION, INC., A NEVADA NON-PROFIT CORPORATION, AND DENNIS DIULLO, Respondents/Cross-Appellants.	No. 34940
JEFFREY REIMER, AND WESTERN COLORPRINT, INC., A NEVADA CORPORATION, Appellants/Cross-Respondents, vs. CRYSTAL TOWER CONDOMINIUM ASSOCIATION, INC., A NEVADA NON-PROFIT CORPORATION, AND DENNIS DIULLO, Respondents/Cross-Appellants.	No. 35288
JEFFREY REIMER, AND WESTERN COLORPRINT, INC., A NEVADA CORPORATION, Appellants/Cross-Respondents, vs. CRYSTAL TOWER CONDOMINIUM ASSOCIATION, INC., A NEVADA NON-PROFIT CORPORATION, AND DENNIS DIULLO, Respondents/Cross-Appellants.	No. 35289

FILED

JUN 20 2001

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

ORDER DISMISSING APPEALS AND CROSS-APPEALS

These are consolidated appeals and cross-appeals from judgments and a post-judgment order of the district court in a dispute concerning condominium association rules and bylaws. Our preliminary review of the documents submitted to this court pursuant to NRAP 3(e), as well as the docketing statements, revealed potential jurisdictional defects in some of these appeals and cross-appeals. Accordingly, we ordered

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appellants and cross-appellants to show cause why these appeals and cross-appeals should not be dismissed for lack of jurisdiction.

Appellants Western Colorprint, Inc. (Western) and Jeffrey Reimer (Reimer), president of Western, filed a complaint against respondents Crystal Tower Condominium Association, Inc. (Crystal) and Dennis Diullo (Diullo), general manager of Crystal, asserting claims for nuisance, declaratory relief, and harassment. Western and Reimer complained that Crystal and Diullo failed to advise Reimer about a rule prohibiting pets before he purchased a condominium, and that the rule was not uniformly imposed and not recorded in the covenants, conditions and restrictions for the condominium complex.

Western and Reimer's claim for nuisance was based on the assertion that the pet prohibition rule interfered with their uninterrupted and peaceful use of the residence. They also sought declaratory relief as to the validity and enforceability of the pet prohibition rule. Further, they asserted a claim that Diullo threatened and harassed Reimer. Finally, Western and Reimer sought punitive damages.

Crystal filed a counterclaim against Reimer, asserting that Reimer refused or failed to abide by the covenants, conditions, restrictions, rules, bylaws and regulations of the condominium complex. This counterclaim was based on Reimer's alleged failure to pay association dues and assessments.

Prior to trial, the district court granted partial summary judgment on Western and Reimer's claim for declaratory relief in favor of Crystal as to the pet prohibition rule's

validity.[1] Crystal's counterclaim against Reimer for failing to abide by the covenants, conditions, and restrictions was withdrawn from the action because it was subject to the mandatory alternative dispute resolution procedures under NRS 38.310 for actions relating to enforcement of covenants, conditions, and restrictions.

The remaining claims for nuisance and harassment proceeded to a jury trial. The jury returned a verdict awarding Western $12,500 in compensatory damages and $100,000 in punitive damages against Crystal. On August 4, 1999, the district court entered a judgment pursuant to the verdict, which disposed of Western's claims against Crystal. Written notice of the judgment's entry was served by mail on August 5, 1999.

On August 9, 1999, Crystal timely filed a motion for a judgment notwithstanding the verdict, or to alter or amend the judgment, or for a new trial. On October 26, 1999, the district court entered a written order denying Crystal's motions for a judgment notwithstanding the verdict and a new trial, and granting Crystal's motion to alter the judgment by reducing the amount of punitive damages awarded to Western. Written notice of the order's entry was served by mail on December 2, 1999.

In the meantime, on September 23, 1999, the district court entered a judgment dismissing the remaining claims that had proceeded to trial, but which the jury's verdict did not resolve. In particular, the judgment dismissed Reimer and Western's claims against Diullo, and dismissed Reimer's claims

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[1]This information is based upon the parties' representations. The record before this court does not contain a copy of the order granting partial summary judgment.

against Crystal. Written notice of the judgment's entry was served on the same day.

Reimer and Western appealed from the September 23, 1999 judgment (Docket No. 34940), the August 4, 1999 judgment (Docket No. 35288), and the October 26, 1999 order resolving the tolling motion (Docket No. 35289). Crystal and Diullo cross-appealed in each of the appeals, designating the August 4 and September 23, 1999 judgments and the October 26, 1999 order in each notice of appeal.[2]

Our initial review of this matter indicated that Crystal's counterclaim against Reimer, which had been withdrawn from the action because it was subject to the mandatory alternative dispute resolution procedures, was not formally resolved. Thus, it appeared that the district court had not entered a final written judgment adjudicating all the rights and liabilities of all the parties.[3]

In their responses to our order to show cause, the parties acknowledged that Crystal's counterclaim was withdrawn from the action. Western and Reimer submitted documentation to demonstrate that Crystal's counterclaim was withdrawn, including Crystal's notice of withdrawal of its motion to amend the counterclaim filed in the district court, and a

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[2]Although Crystal and Diullo's original notices of appeal designated only the August 4, 1999 judgment and October 26, 1999 order, they filed amended notices of appeal the same day, designating all three orders.

[3]See Rae v. All American Life & Cas. Co., 95 Nev. 920, 605 P.2d 196 (1979) (stating that in a multiple-party action, a judgment is not final unless the rights and liabilities of all parties have been adjudicated); see also KDI Sylvan Pools v. Workman, 107 Nev. 340, 810 P.2d 1217 (1991) (providing that a judgment resolving less than all claims is not a final, appealable judgment).

Although our initial review of this matter revealed other potential jurisdictional defects in these appeals and cross-appeals, we need not resolve those jurisdictional issues in light of our conclusion that there is no final judgment.

letter from Western and Reimer's counsel to Crystal's counsel noting the counterclaim's withdrawal and suggesting that Crystal take appropriate action to ensure that the court's records reflect the withdrawal.

There is, however, no written order formally dismissing the counterclaim. This court has held that all claims must be formally resolved for finality.[4] Because Crystal's counterclaim was not formally resolved in the district court, there is not yet a final judgment in this case.[5] Accordingly, we lack jurisdiction, and we

ORDER these appeals and cross-appeals DISMISSED.

_____, J.
Shearing

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Agosti

_____, J.
Rose

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[4]KDI Sylvan Pools, 107 Nev. at 342-43, 810 P.2d at 1219.

[5]It appears that the parties may perfect an appeal by filing timely notices of appeal from the final judgment, that is, a written order formally dismissing Crystal's counterclaim. See NRAP 4(a). As the parties have already gone through the settlement program under NRAP 16 in these appeals and cross-appeals, the parties may request exemption from the settlement program in any subsequent appeal from the final judgment.

cc: Hon. Connie J. Steinheimer, District Judge
Mark H. Gunderson, Ltd.
Laxalt & Nomura, Ltd.
Lemons Grundy & Eisenberg
Washoe County Clerk