

IN THE SUPREME COURT OF THE STATE OF NEVADA

FEET, INC., A NEVADA  
CORPORATION; ELLEN PLUMER, AN  
INDIVIDUAL; AND PAUL PLUMER,  
AN INDIVIDUAL,  
Appellants,  
vs.  
SWEET MEDICINE, INC., AN  
ARIZONA COMPANY; STEPHEN  
FAHRINGER, AN INDIVIDUAL; AND  
MELANIE FAHRINGER, AN  
INDIVIDUAL,  
Respondents.

No. 58998

**FILED**

**JAN 23 2012**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *Angrosu*  
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court judgment and award of attorney fees and costs in a contract and tort action. Eighth Judicial District Court, Clark County; Jerry A. Wiese, Judge.

On November 18, 2011, after this court's preliminary review of this appeal revealed a perceived jurisdictional defect, we directed appellants to show cause why this appeal should not be dismissed for lack of jurisdiction. Specifically, our November 18 show cause order noted that certain counterclaims raised by respondents below appeared to remain pending in district court, and thus, it appeared that a final judgment had not yet been entered. See generally Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000). Our November 18 order also noted that appellants could submit documentation that established this court's jurisdiction, such as an NRCP 41 stipulation or a district court order formally dismissing or otherwise resolving the counterclaims.

Appellants timely responded and acknowledged that the counterclaims highlighted in this court's show cause order remain pending. Appellants further asserted that they contacted the district court, but that it was reluctant to dismiss the claims based on its concern that it lacked jurisdiction over the matter because of the appeal to this court. Appellants nevertheless also stated that they anticipated that the parties would shortly enter into a stipulation to dismiss the counterclaims. Respondents have filed a reply, however, in which they state that they will not stipulate to dismiss the counterclaims and move to dismiss this appeal as premature.

Although a premature notice of appeal does not divest the district court of jurisdiction, NRAP 4(a)(6), appellants have failed to demonstrate that a final judgment has been entered in this matter. Therefore, this court lacks jurisdiction over this appeal, see NRAP 3A(b)(1); Lee, 116 Nev. 424, 996 P.2d 416, and we

ORDER this appeal DISMISSED.

Cherry, J.  
Cherry

Pickering, J.  
Pickering

Hardesty, J.  
Hardesty

cc: Hon. Jerry A. Wiese, District Judge  
Lansford W. Levitt, Settlement Judge  
Coleman Law Associates  
Huggins & Maxwell, Ltd.  
Eighth District Court Clerk