

IN THE SUPREME COURT OF THE STATE OF NEVADA

No. 35747

CREATIVE OFFICE INTERIORS, INC., A  
NEVADA CORPORATION, AND MELBA  
BINION, AN INDIVIDUAL,

Appellants,

vs.

BANK OF AMERICA OF NEVADA, A  
NEVADA CORPORATION, AND PATRICIA  
DAVIS, AN INDIVIDUAL,

Respondents.

**FILED**

SEP 26 2000

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from an order of the district court granting respondents' motion for summary judgment. When our preliminary review of this appeal revealed a potential jurisdictional defect, we ordered appellants to show cause why this appeal should not be dismissed for lack of jurisdiction.

It appeared that the district court had not entered a final written order adjudicating all the rights and liabilities of all the parties, and the district court did not certify its order granting respondents' motion for summary judgment as final pursuant to NRCP 54(b). See *Rae v. All American Life & Cas. Co.*, 95 Nev. 920, 605 P.2d 196 (1979). In particular, the district court had not entered a judgment or order resolving appellants' claims against defendant Rosalie Hesiben Boulware or the counterclaim asserted by Boulware against appellants. These claims and counterclaim appeared to remain pending in the district court. Appellants indicated in the docketing statement that Boulware filed for bankruptcy prior to entry of the district court's order granting summary judgment in favor of respondents. In our prior order, we noted that if the claims against Boulware and the counterclaim asserted by Boulware remained pending in the

district court, then the order granting summary judgment in favor of respondents is not a final order, and is therefore not appealable absent a proper certification of finality by the district court pursuant to NRCP 54(b). See Mallin v. Farmers Insurance Exchange, 106 Nev. 606, 797 P.2d 978 (1990).

In response to this court's order to show cause, appellants filed a motion for voluntary dismissal of this appeal without prejudice, citing NRCP 54(b) and NRAP 3A(b). Because we conclude that we lack jurisdiction to consider this appeal, we grant appellants' motion. Accordingly, we dismiss this appeal without prejudice to appellants' right to appeal from a final appealable order of the district court.

It is so ORDERED.

Young J.  
Young

Maupin J.  
Maupin

Becker J.  
Becker

cc: Hon. Ronald D. Parraguirre, District Judge  
David Lee Phillips  
Jones Vargas  
Clark County Clerk