

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT RAYMOND BREault,

No. 35874

Appellant,

vs.

SEAN P. SULLIVAN and KEVIN M.
KELLY,

Respondents.

FILED

NOV 15 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is a proper person appeal from a district court order granting an NRCP 12(b)(1) motion in favor of respondents in what is primarily a legal malpractice case.¹ Our review of the record on appeal reveals a jurisdictional defect. Specifically, it appears that the district court has not entered a final written judgment adjudicating all the rights and liabilities of all the parties, and the district court did not certify its order granting respondents' NRCP 12(b)(1) motion as final pursuant to NRCP 54(b).² See Rae v. All

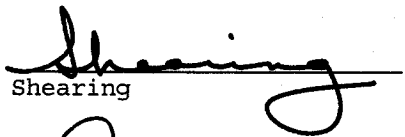
¹We note in the record that respondents, in support of their NRCP 12(b)(1) motion, asserted that appellant's claims were prematurely filed. However, respondents never briefed the issue, nor does it appear that the district court considered, what affect, if any, the 1997 amendments have upon the precedential value of opinions predicated upon prior versions of NRS 11.207.

²Based upon the record on appeal, it is not apparent whether NRCP 54(b) certification of the order would be appropriate. NRCP 54(b) certification is not proper when the claims asserted in an action are so closely related that this court would necessarily decide important issues pending below in order to decide the issues appealed. See Mallin v. Farmers Insurance Exchange, 106 Nev. 606, 797 P.2d 978 (1990); Hallicrafters Co. v. Moore, 102 Nev. 526, 728 P.2d 441 (1986). The determinations made pursuant to NRCP 54(b) are matters to be considered carefully by the district court and should not be

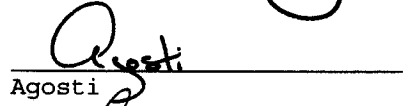
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American Life & Cas. Co., 95 Nev. 920, 605 P.2d 196 (1979).
Kelly & Sullivan, Ltd.'s breach of contract claim against
appellant appears to remain unresolved below. Accordingly, as
we lack jurisdiction, we

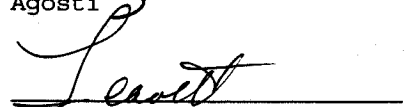
ORDER this appeal dismissed.³



Shearing J.



Agosti J.



Leavitt J.

cc: Hon. Nancy M. Saitta, District Judge
Barker, Brown, Busby, Chrisman & Thomas, P.C.
Robert Raymond Breault
Clark County Clerk

(...Continued)

entered routinely or as an accommodation to counsel or the
litigants.

³If the district court should properly certify the order
granting respondents' NRCP 12(b)(1) motion pursuant to NRCP
54(b), appellant can appeal from the NRCP 12(b)(1) order at
that time in accordance with the deadlines specified in NRAP
4(a). Should the district court deny certification pursuant to
NRCP 54(b), or in the event NRCP 54(b) certification is never
sought or is improper, appellant can raise his challenge to the
NRCP 12(b)(1) order in a timely appeal from a final judgment.

We deny as moot appellant's motion for leave to proceed in
forma pauperis. Although appellant was not granted leave to
file papers in proper person, see NRAP 46(b), we have
considered the proper person documents received from appellant.