

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHESTER L. MALLORY,
Appellant,
vs.
EDDIE SMYTH,
Respondent.

No. 63873

FILED

AUG 25 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court judgment on the jury verdict in a breach of guaranty action. On April 29, 2014, this court ordered appellant to show cause why this appeal should not be dismissed for lack of jurisdiction, pointing out that respondent's claims against defendants Harold J. Rubinstein and TMX, Inc., appeared to remain pending. We noted that, although it appeared that the claims against Rubinstein were subject to the automatic bankruptcy stay and that TMX was orally dismissed at trial, no copy of any order formally resolving those claims was provided to this court.

In his timely response, appellant argues that Rubinstein was formally dismissed when his counterclaims were dismissed but agrees that no order formally dismissing TMX has been entered. In reply, respondent confirms that Rubinstein filed for bankruptcy and that the claims against TMX were orally dismissed at trial, as reflected on the record. But neither the automatic bankruptcy stay nor the order resolved respondent's claims filed against Rubinstein, *Tradesman Int'l., Inc. v. Black*, 724 F.3d 1004, 1010 (7th Cir. 2013), and no stipulated dismissal was signed by the parties and filed in the district court per NRCP 41(a)(1). Accordingly, it appears

that those claims remain pending, and thus we lack jurisdiction. NRAP 3A(b)(1); *Lee v. GNLV Corp.*, 116 Nev. 424, 996 P.2d 416 (2000).

Therefore, we

ORDER this appeal DISMISSED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Cherry, J.
Cherry

cc: Hon. David A. Hardy, District Judge
Madelyn Shipman, Settlement Judge
Charles R. Kozak
Hardy Law Group
Washoe District Court Clerk