

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALESSI & KOENIG, LLC, A NEVADA  
LIMITED LIABILITY COMPANY,  
Appellant,

vs.

SOUTHERN HIGHLANDS  
COMMUNITY ASSOCIATION, A  
NEVADA NON-PROFIT  
COOPERATIVE CORPORATION; A  
NEVADA NON-PROFIT  
CORPORATION,

Respondent.

No. 67436

**FILED**

SEP 29 2015

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER DISMISSING APPEAL*

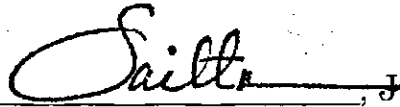
This is an appeal from a district court order granting partial summary judgment in a breach of contract action. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Respondent has filed a motion to dismiss this appeal for lack of jurisdiction, asserting that the district court order is not a final judgment appealable pursuant to NRAP 3A(b)(1). Appellant opposes the motion and respondent has filed a reply.

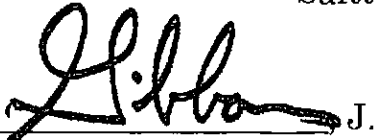
The district court order grants respondent's motion for partial summary judgment and finds in favor of respondent regarding part of appellant's claim for breach of contract. As appellant concedes, the order does not resolve the remaining portion of appellant's breach of contract claim or resolve respondent's counterclaims. Thus, the order is not appealable as a final judgment. *See* NRAP 3A(b)(1); *Lee v. GNLV, Corp.*, 116 Nev. 424, 996 P.2d 416 (2000) (defining a final judgment as "one that disposes of all the issues presented in the case, and leaves nothing for the future consideration of the court, except for post-judgment issues such as

attorney's fees and costs"). The district court did not certify the order as final pursuant to NRCP 54(b)<sup>1</sup> and it does not appear that any other statute or court rule authorizes an appeal from an order granting partial summary judgment. See *Taylor Constr. Co. v. Hilton Hotels*, 100 Nev. 207, 678 P.2d 1152 (1984) (this court has jurisdiction to consider an appeal only when it is authorized by statute or court rule). Accordingly, we grant the motion<sup>2</sup> and

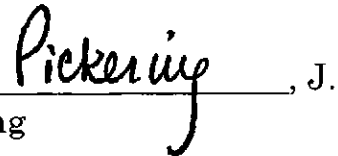
ORDER this appeal DISMISSED.<sup>3</sup>



Saitta



Gibbons



Pickering

<sup>1</sup>We decline appellant's invitation to construe the order as containing a NRCP 54(b) certification and note that such certification would be improper where the district court's order did not completely remove a party from the action. See *Mallin v. Farmers Ins. Exch.*, 106 Nev. 606, 797 P.2d 978 (1990).

<sup>2</sup>The parties' stipulations for extensions of time to file the opening brief are denied as moot.

<sup>3</sup>Although appellant is incorrect in its assertion that this court has jurisdiction to consider this appeal, we cannot conclude that the appeal was frivolous. Accordingly, we deny respondent's request to impose sanctions under NRAP 38(b). We caution appellant, however, that repeated filing of notices of appeal from orders over which this court clearly lacks jurisdiction may result in the imposition of sanctions. See NRAP 38.

cc: Hon. Michelle Leavitt, District Judge  
Janet Trost, Settlement Judge  
Alessi & Koenig, LLC  
Brownstein Hyatt Farber Schreck, LLP/Las Vegas  
Eighth District Court Clerk