

IN THE SUPREME COURT OF THE STATE OF NEVADA

JADEN S. LUNDY,

No. 36256

Appellant,

vs.

DEBORAH MALINOWKI,

Respondent.

**FILED**

**MAY 25 2001**

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

ORDER DISMISSING APPEAL

This is an appeal from an order of the district court denying appellant's motion to set aside a default. Respondent has moved to dismiss this appeal for lack of jurisdiction, asserting that the order is not appealable. In response to the motion, appellant concedes that this court does not have jurisdiction over this appeal.

The right to appeal is statutory; if no statute or court rule provides for an appeal, no right to appeal exists.<sup>1</sup> An order denying a motion to set aside a default entered pursuant to NRCPC 55(c) is not an appealable order.<sup>2</sup> Accordingly, we grant respondent's motion, and we dismiss this appeal.

Respondent also requests double costs and reasonable attorney fees in the amount of \$2,500.00 pursuant to NRAP 38. Respondent contends that this appeal was brought for the purpose of unnecessary delay because the order was unappealable under clear legal authority. Appellant opposes the request, arguing that appellant has not tried to delay

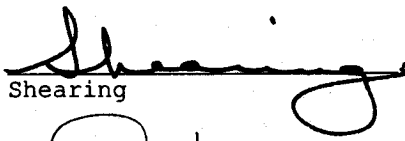
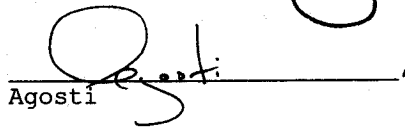
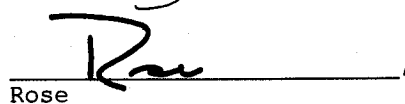
<sup>1</sup>See Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984); Kokkos v. Tsalikis, 91 Nev. 24, 530 P.2d 756 (1975).

<sup>2</sup>See Aetna Life & Casualty v. Rowan, 107 Nev. 362, 812 P.2d 350 (1991); NRAP 3A(b).

this matter but is merely attempting to have this matter resolved by a trier of fact.

Having considered respondent's request and the opposition, we conclude that costs and attorney fees are not warranted under NRAP 38. Accordingly, we deny respondent's request.<sup>3</sup>

It is so ORDERED.

  
Shearing J.  
  
Agosti J.  
  
Rose J.

cc: Hon. Michael L. Douglas, District Judge  
Laura M. Payne & Associates  
Kenneth L. Hall  
Clark County Clerk

---

<sup>3</sup>On March 29, 2001, we ordered appellant to file the docketing statement within ten days. Rather than filing the docketing statement, appellant's counsel filed a response stating that in light of appellant's position in opposition to the motion to dismiss, the filing of a docketing statement has been rendered moot. We admonish appellant's counsel for disregarding our directive to file the docketing statement, and we caution counsel that future conduct in disregard of this court's orders may result in the imposition of sanctions.