

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BENJAMIN MOORE,
Appellant,
vs.
UNIVERSITY MEDICAL CENTER OF
SOUTHERN NEVADA, A POLITICAL
SUBDIVISION OF CLARK COUNTY,
Respondent.

No. 69367

FILED

JAN 13 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This appeal challenges various district court orders relating to a final judgment awarding a monetary judgment to UMC, rejecting Moore's claim for declaratory relief, finding attorney Bradley Booke in contempt, awarding attorney fees, costs, and imposing a fine. Eighth Judicial District Court, Clark County; Jessie Elizabeth Walsh, Judge.¹

This appeal involves a number of orders issued by the district court over a period of several months, but because we reverse the November 10, 2015 judgment, all of the other orders related to it are also hereby vacated.

This case started as a complaint for declaratory relief under NRS 30.030, in which Moore sought to clarify whether Nevada follows the "make whole" doctrine recognized in California. Moore sought the clarification in response to a medical lien filed (but possibly not perfected)

¹This matter was assigned to Judge Walsh, but Senior Judge Lee Gates presided over the initial hearing and issued the first order at issue in this appeal.

by UMC relating to treatment previously rendered to Moore, and Moore believed that the "make whole" doctrine would exempt him from the lien.

In answering Moore's complaint for declaratory relief, UMC did not plead a counterclaim seeking money damages against Moore. Nonetheless, in response to a motion titled "UMC's Motion . . . to Adjudicate Medical Lien," the district court entered monetary judgment in favor of UMC anyway.

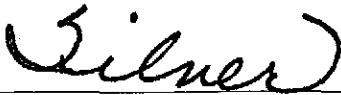
Moreover, the district court entered judgment on this unasserted claim without conducting a trial (and without employing any recognized trial substitute such as NRCP 12(c) or 56). Instead, the court simply resolved all pending factual and legal disputes on its own, in chambers, without hearing the sworn testimony of any witnesses, without applying any rules of evidence or any recognized procedures for admitting evidence, without permitting the parties to assert any objections to any evidence, without permitting any cross-examination of any witness by any party, and without identifying the legal standards used to resolve any factual or legal disputes, and without entering findings of fact and conclusions of law.

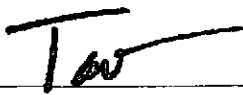
The district court clearly erred by failing to apply the Nevada Revised Statutes, the Nevada Rules of Civil Procedure, and applicable precedent from our supreme court, and by entering judgment without a trial in favor of a party that never even pled a claim for relief.²

²Oddly, the district court entered this monetary judgment against both Moore and personally against Moore's counsel, Booke. But Booke was not a party to the case, and the court therefore lacked jurisdiction to enter any judgment against him. See NRCP 4(d); *Schwob v. Hemsath*, 98 Nev. 293, 294, 646 P.2d 1212, 1212 (1982) ("Without proper service of process the district court acquires no jurisdiction over a party.") (citing *continued on next page...*)

Accordingly, we

ORDER the judgment of the district court REVERSED and we remand this matter for proceedings consistent with this order.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Jessie Elizabeth Walsh, District Judge
Kathleen J. England, Settlement Judge
Law Office of Bradley L. Boone
Clark County District Attorney/Civil Division
Eighth District Court Clerk

...continued

Brockbank v. District Court, 65 Nev. 781, 201 P.2d 299 (1948); *State v. District Court*, 51 Nev. 206, 273 P. 659 (1929)).