

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERTSON INDUSTRIES, INC., AN  
ARIZONA CORPORATION,

Appellant,

vs.

PACE CONTRACTING COMPANY, A  
NEVADA CORPORATION; AND THE  
HARTFORD ACCIDENT AND  
INDEMNITY COMPANY, A SURETY,  
Respondents.

No. 70896

FILED

MAR 24 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *Malcolm*  
COURT CLERK

*ORDER DISMISSING APPEAL*

This is an appeal from a district court order, purportedly certified as final under NRCP 54(b), granting in part a motion for summary judgment and denying a counter-motion for partial summary judgment. Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.

When our initial review of the docketing statement and documents before this court revealed a potential jurisdictional defect, we ordered appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. We explained that it does not appear that a final judgment appealable under NRAP 3A(b)(1) has been entered because Pace Contracting's counterclaims against appellant have not been finally resolved. *See Lee v. GNLV, Corp.*, 116 Nev. 424, 426, 996 P.2d 416, 417 (2000). We also noted that the challenged order does not appear amenable to NRCP 54(b) certification where those counterclaims remain pending. *See NRCP 54(b); Taylor Constr. Co. v. Hilton Hotels, Corp.*, 100 Nev. 207, 209, 678 P.2d 1152, 1153 (1984). In response to our order, appellant does not assert that this court has jurisdiction. Instead, appellant asks that

17-09921

this court treat the appeal as a petition for a writ of mandamus and/or prohibition.

Appellant fails to demonstrate that this court has jurisdiction over this appeal under NRAP 3A(b)(1). It does not appear, and appellant does not assert, that the challenged order is otherwise appealable. Accordingly, we conclude that we lack jurisdiction and dismiss this appeal. *See Brown v. MHC Stagecoach*, 129 Nev. Adv. Op. 37, 301 P.3d 850, 853 (2013) (this court lacks jurisdiction where no statute or court rule authorizes an appeal). We decline appellant's request to treat this appeal as an original petition for a writ of mandamus or prohibition. Appellant may file a petition in accordance with NRAP 21, if deemed warranted.

It is so ORDERED.

Hardesty, J.  
Hardesty

Parraguirre, J.  
Parraguirre

Stiglich, J.  
Stiglich

cc: Hon. Kathleen E. Delaney, District Judge  
Michael H. Singer, Settlement Judge  
Howard & Howard Attorneys PLLC  
Holley, Driggs, Walch, Fine Wray Puzey & Thompson/Las Vegas  
Eighth District Court Clerk