

IN THE SUPREME COURT OF THE STATE OF NEVADA

CLIFFORD A. JONES, INDIVIDUALLY
AND AS CO-TRUSTEE OF THE JONES
TRUST NO. 101,

No. 36552

Appellant,

vs.

THE BARRY AND AMY FIELDMAN FAMILY
TRUST UDT; BARRY FIELDMAN PROFIT
SHARING PLAN AND TRUST UDT JANUARY
1, 1991; JO CORNEJO; JOHN CARTER;
JULIE CARTER; SUSAN YARGER; LINDA
ROBBINS; HANNAH WEINBERG; COCOA
A.E. CARTER; AND BARRY J.
FIELDMAN, INDIVIDUALLY AND AS
AGENT OF THESE SECURED CREDITORS,

Respondents.

FILED

JUL 11 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment and order entered by the district court in an action for declaratory and injunctive relief.

After appellant filed his complaint against respondents for declaratory and injunctive relief, the district court entered a preliminary injunction pending an evidentiary hearing. On June 25, 1998, after the hearing, the district court entered findings of fact, conclusions of law, and an order dissolving the preliminary injunction. Almost two years later, on June 27, 2000, the district court entered a judgment and order in which the court ordered that, pursuant to the parties' stipulation, the June 25, 1998 order dissolving the preliminary injunction was the final judgment of the court. The district court did not cite to NRCP 54(b), but did state that there was no just reason for delay in entry

of a final judgment.¹ Appellant filed this appeal from the June 27, 2000 judgment and order.

Our initial review of this appeal indicated that the district court had not entered a final written judgment adjudicating all the rights and liabilities of all the parties.² Neither the June 25, 1998 order nor the June 27, 2000 order expressly resolved appellant's request for a permanent injunction or request for declaratory relief. All claims must be formally resolved for finality.³

Further, even if the June 27, 2000 judgment and order was intended to constitute a certification of finality under NRCP 54(b), the order did not mention NRCP 54(b), and it did not appear that NRCP 54(b) certification would be proper in any event.⁴ Certification of finality under NRCP 54(b) is available when more than one claim for relief is asserted, and the order completely removes a separate claim for relief.⁵ Here, it does not appear that appellant's requests for declaratory and injunctive relief constituted more than one claim for relief, or that the district court's decision on the request for a preliminary injunction completely removed a separate claim for relief from the action.

¹See NRCP 54(b); Aldabe v. Evans, 83 Nev. 135, 425 P.2d 598 (1967).

²See Rae v. All American Life & Cas. Co., 95 Nev. 920, 605 P.2d 196 (1979).

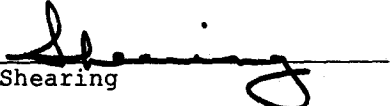
³See KDI Sylvan Pools v. Workman, 107 Nev. 340, 342-43, 810 P.2d 1217, 1219 (1991).

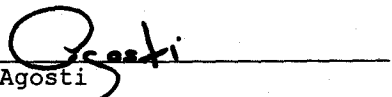
⁴Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984) (stating that NRCP 54(b) certification cannot create finality when the order is not amenable to certification).

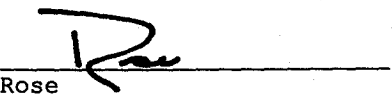
⁵See Mallin v. Farmers Insurance Exchange, 106 Nev. 606, 797 P.2d 978 (1990); Hallicrafters Co. v. Moore, 102 Nev. 526, 728 P.2d 441 (1986); Mid-Century Ins. Co. v. Cherubini, 95 Nev. 293, 593 P.2d 1068 (1979).

On May 7, 2001, we ordered appellant to show cause why this appeal should not be dismissed for lack of jurisdiction within thirty days. To date, appellant has failed to respond to our order. Accordingly, because appellant has failed to demonstrate that we have jurisdiction, we

ORDER this appeal DISMISSED.


_____, J.
Shearing


_____, J.
Agosti


_____, J.
Rose

cc: Hon. Gene T. Porter, District Judge
Harrison Kemp & Jones, Chtd.
Lionel Sawyer & Collins
Clark County Clerk