

IN THE SUPREME COURT OF THE STATE OF NEVADA

FAIN T. GONCE,

No. 36923

Appellant,

FILED

vs.

NOV 30 2000

CHUBB GROUP OF INSURANCE
COMPANIES,

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

Respondent.

ORDER DISMISSING APPEAL

This is a proper person appeal from an order denying appellant's motion to set aside a default judgment. Our review of the documents transmitted to this court pursuant to NRAP 3(e) reveals several jurisdictional defects.


First, the notice of appeal was untimely. The order denying appellant's motion was entered on September 8, 2000, and notice of entry of the order was served by mail on September 11, 2000. The notice of appeal was therefore due no later than October 16, 2000. See NRAP 4(a)(1) (providing that a notice of appeal must be filed within thirty days of service of notice of entry of the order appealed from); NRAP 26(c) (providing that three days are added where service is by mail); NRAP 26(a) (providing that where a deadline falls on a Saturday, it is extended to the next day which is not a Saturday, Sunday or nonjudicial day). Here, the notice of appeal was not filed until October 20, 2000. An untimely notice of appeal fails to vest jurisdiction in this court. See *Rust v. Clark Cty. School District*, 103 Nev. 686, 747 P.2d 1380 (1987).

In addition, the order appealed from is not substantively appealable. No final judgment has been entered in the underlying district court case, as the claims of several parties have not yet been resolved. See *Lee v. GNLV*


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Corp., 116 Nev. ___, 996 P.2d 416 (2000). Also, the district court did not certify the order as final pursuant to NRC 54(b), nor is an order denying a motion to set aside a default judgment independently appealable.¹ See NRAP 3A(b)(2). Accordingly, as we lack jurisdiction, we

ORDER this appeal dismissed.²


_____, C.J.
Rose


_____, J.
Young


_____, J.
Becker

cc: Hon. Valorie J. Vega, District Judge
Wieczorek & Associates
Fain T. Gonce
Clark County Clerk

¹Where a final judgment has previously been entered, then a subsequent order denying a motion to set aside a default judgment may be appealed as a special order after final judgment. See *Holiday Inn v. Barnett*, 103 Nev. 60, 732 P. 2d 1376 (1987) (considering an appeal from a post-judgment order denying a motion to vacate the judgment). However, here, there has been no final judgment. We note that appellant may file a new notice of appeal once a final judgment is entered. Alternatively, appellant may ask the district court to certify the order denying his motion to set aside the default judgment as final pursuant to NRC 54(b); if the district court so certified the order, appellant could file a new notice of appeal.

²We note that appellant failed to pay the filing fee pursuant to NRS 2.250. This constitutes an independent basis for dismissing this appeal.