

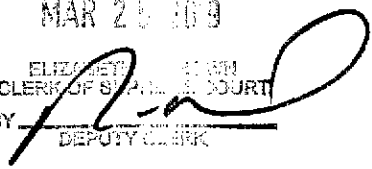
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEPHEN CHOATE,
Appellant,
vs.
LISA M. CHAMLEE-BRAINARD;
THOMAS J. GIBSON; AND NATHAN L.
GENT,
Respondents.

No. 76766-COA

FILED

MAR 25 1998

ELIZABETH J. GIBSON
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER VACATING JUDGMENT

Stephen Choate appeals from an order dismissing a complaint in a legal malpractice action.¹ Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

In response to the complaint, respondent Thomas J. Gibson filed a demand for mandatory change of venue, seeking to have the matter transferred from the Eighth Judicial District Court to the Fifth Judicial

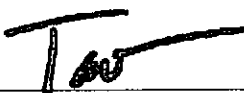
¹Neither Harold Kuehn nor Harold Gensler made an appearance in the district court and Choate indicated that they were not served. As such, they never became parties to the case, and thus, they are not proper parties to this appeal. *See Valley Bank of Nev. v. Ginsburg*, 110 Nev. 440, 448, 874 P.2d 729, 735 (1994) (explaining that a person who is not served with process and does not make an appearance in the district court is not a party to that action). We therefore direct the clerk of the court to amend the caption of this case to conform to the caption on this order by removing Kuehn and Gensler from the caption.

District Court. Subsequently, respondents Lisa M. Chamlee-Brainard and Nathan L. Gent, separately moved for dismissal and/or summary judgment. On August 1, 2018, the district court entered an order transferring the case pursuant to Gibson's demand. Specifically, the order stated that the case "shall be forthwith removed from the dockets of the Eighth Judicial District Court and transferred to the Fifth Judicial District Court, in and for Nye County, Nevada." Thereafter, on August 20, 2018, an order was entered by the Eighth Judicial District Court, granting Chamlee-Brainard's and Gent's motions to dismiss.

As noted above, the dismissal order at issue here was entered by the Eighth Judicial District Court after the matter had already been transferred to the Fifth Judicial District Court. Under these circumstances, the Eighth Judicial District Court lacked jurisdiction to enter the dismissal order as the case was no longer pending before it. *See Damus v. Avis Rent A Car Sys., Inc.*, 108 Nev. 46, 48, 824 P.2d 283, 284 (1992) (stating that once venue was ordered transferred, the transferor court "relinquished jurisdiction over all further proceedings" and that "[f]rom that point on, jurisdiction was in the transferee court"); NRS 13.050(3) (providing that once venue has been changed "all other matters relating to the proceeding shall be had in the" new venue). Thus, once the venue change was granted, only the Fifth Judicial District Court had jurisdiction to rule on the motions to dismiss and/or for summary judgment brought by Chamlee-Brainard and

Gent. As a result, we vacate the district court's order dismissing the complaint against these parties as any relief based on these motions must be sought in the Fifth Judicial District Court.

It is so ORDERED.


_____, J.
Tao


_____, J.
Gibbons


_____, J.
Bulla

cc: Hon. Susan Johnson, District Judge
Stephen Choate
Harold Kuehn
Harry R. Gensler
John H. Cotton & Associates, Ltd.
Ropers, Majeski, Kohn & Bently/Las Vegas
Gibson Law Group
Eighth District Court Clerk
Fifth District Court Clerk