

IN THE SUPREME COURT OF THE STATE OF NEVADA

EQUITY TRUST COMPANY
CUSTODIAN FBO MELISSA SCALERA
IRA,

Appellant,

vs.

MIDFIRST BANK, FORM AND TYPE
OF ENTITY UNKNOWN, A/K/A BANK
MIDFIRST,

Respondent.

No. 70821

FILED

MAR 14 2017

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

ORDER DISMISSING APPEAL

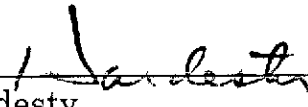
This is an appeal from a district court order granting a motion to dismiss. Eighth Judicial District Court, Clark County; Kenneth C. Cory, Judge.

Respondent filed a motion to dismiss this appeal for lack of jurisdiction. Appellant opposes the motion and respondent has filed a reply. In its motion, respondent contends that this court lacks jurisdiction over this appeal because appellant's claims against Mission Point Condominium Homeowners Association remain pending below, and because the order appealed from was not certified as final pursuant to NRCP 54(b), no final judgment has been entered below. Appellant argues that Mission Point was never a party to the action below because it was never served with the complaint. Respondent disputes the claim of lack of service.


Due to the factual issue regarding service as to Mission Point, on January 25, 2017, this court entered an order deferring ruling on the motion to dismiss, and directing appellant to, within 30 days, conclusively demonstrate that this court has jurisdiction or otherwise obtain a final judgment from the district court.

In its response to this court's order, appellant requests that this appeal be dismissed. Cause appearing, this appeal is dismissed.¹


It is so ORDERED.²



Hardesty J.



Parraguirre J.



Stiglich J.

cc: Hon. Kenneth C. Cory, District Judge
Janet Trost, Settlement Judge
Joseph Y. Hong
McCarthy & Holthus, LLP/Las Vegas
Eighth District Court Clerk

¹Respondent filed an opposition to appellant's response, arguing that the appeal should be dismissed as premature and not because it is moot, as indicated by appellant in its response. We take no position in this regard and dismiss this appeal solely based on appellant's voluntary request to dismiss this appeal.

²Respondent's motion to dismiss is denied.