

IN THE SUPREME COURT OF THE STATE OF NEVADA

EVENING SKY, LLC,
Appellant,
vs.
BANK OF AMERICA, N.A.,
Respondent.

No. 72168

FILED

AUG 10 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order granting a motion for summary judgment in a quiet title action. Eighth Judicial District Court, Clark County; Timothy C. Williams, 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. It appeared that the order was not appealable as a final judgment under NRAP 3A(b)(1) because claims remained pending in the district court. *See Lee v. GNLV Corp.*, 116 Nev. 424, 426, 996 P.2d 416, 417 (2000).


On April 25, 2017, appellant filed a response agreeing that the claims against Joseph Palang and respondent's cross-claims for unjust enrichment against Smoke Ranch Maintenance District and Nevada Association Services remained pending. Counsel for appellant stated that he filed an application for a default judgment against Palang and a motion to certify the challenged order as final under NRCP 54(b). Counsel also represented that he would supplement his response once orders regarding his application and motion were entered in the district court.

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When counsel failed to file a supplement or otherwise communicate with this court, we entered an order on June 19, 2017, directing appellant to file and serve a supplemental response by July 10, 2017. We cautioned that failure to respond could result in the dismissal of this appeal.

To date, appellant has failed to file a supplemental response or otherwise communicate with this court. Additionally, our review of the district court docket entries indicates that although a default judgment was entered against Palang on June 5, 2017, no written order has been entered resolving respondent's claims for unjust enrichment or certifying the challenged order as final under NRCP 54(b).¹ It thus appears that claims remain pending in the district court and the challenged order is not appealable under NRAP 3A(b)(1). Accordingly, we

ORDER this appeal DISMISSED.


Gibbons


Parraguirre


Stiglich

¹It appears that the district court orally granted a motion for NRCP 54(b) certification on May 25, 2017. However, this oral order is not effective. *See State, Division of Child & Family Services v. District Court*, 120 Nev. 445, 451-54, 92 P.3d 1239, 1243-45 (2004).

cc: Hon. Timothy C. Williams, District Judge
Noggle Law PLLC
Akerman LLP/Las Vegas
Eighth District Court Clerk