

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN J. PTAK,
Appellant/Cross-Respondent,
vs.
FLETCHER JONES LAS VEGAS, INC.,
D/B/A FLETCHER JONES
CHEVROLET; AND FLETCHER
JONES, JR.,
Respondents/Cross-Appellants.

No. 37742

FILED

MAR 28 2002

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL AND CROSS-APPEAL

This is an appeal from a judgment upon a jury verdict and an order denying a motion for a new trial, and a cross-appeal from an order denying a motion for attorney fees. When our preliminary review of the docketing statements and the documents submitted to this court pursuant to NRAP 3(e) revealed a potential jurisdictional defect, we directed appellant and cross-appellants to demonstrate that jurisdiction over the appeal and cross-appeal existed. Specifically, it appeared that the district court had not entered a final written judgment adjudicating all the rights and liabilities of all the parties due to a pending third-party claim against Certified Auto Retailers, and the district court did not certify its judgment as final under NRCP 54(b).¹ Absent a final judgment, the cross-appeal from the order denying attorney fees also appeared premature.²


¹See Rae v. All American Life & Cas. Co., 95 Nev. 920, 605 P.2d 196 (1979).

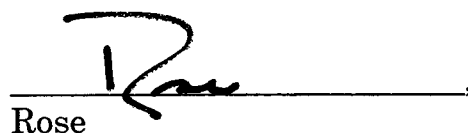
²See Smith v. Crown Financial Services, 111 Nev. 277, 280 n.2, 890 P.2d 769, 771 n.2 (1995) (stating that an order awarding attorney fees is a special order made after final judgment); Rust v. Clark Cty. School District, 103 Nev. 686, 747 P.2d 1380 (1987).

Appellant's response to our order to show cause was due February 27, 2002. To date, appellant has failed to respond in any manner to our order. Accordingly, we conclude that appellant has not demonstrated that this court has jurisdiction over the appeal and that a dismissal of the appeal is warranted.³

On February 19, 2002, cross-appellants filed a response addressing the timeliness of their notice of appeal, but deferring to appellant the issue of finality of judgment. Thus, cross-appellants have also not shown that a final judgment has been entered in this action. Again, without a final judgment, their cross-appeal from the order denying attorney fees is premature. Based on the foregoing, we conclude that we lack jurisdiction over these matters and

ORDER the appeal and cross-appeal DISMISSED.

 J.
Shearing

 J.
Rose

 J.
Becker

³See Moran v. Bonneville Square Assocs., 117 Nev. ___, 25 P.3d 898 (2001) (stating that the burden of establishing appellate jurisdiction lies with appellant).

cc: Hon. James C. Mahan, District Judge
Thomas F. Christensen, Settlement Judge
Jerome A. DePalma
Fisher & Phillips LLP
Laxalt & Nomura, Ltd./Reno
Joy Hinck, Court Reporter
Clark County Clerk