

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMIE K. WHEELER AND FAYE S.
WHEELER,
Appellants,

vs.

UNITED SERVICES AUTOMOBILE
ASSOCIATION; VICTOR DRAKULICH;
VERNON E. LEVERTY; MATTHEW L.
SHARP; AND LEVERTY &
ASSOCIATES LAW CHTD.,
Respondents.

No. 37774

FILED

SEP 24 2002

JUSTICE BLOOR
CLERK OF SUPREME COURT
BY *J. Richard*
DEPUTY CLERK

ORDER DISMISSING APPEAL

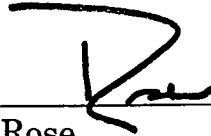
This is an appeal from a March 19, 2001 district court order that granted an NRCP 4(i) motion to dismiss for failure to timely serve process. On June 20, 2002, we ordered appellants to show cause why this appeal should not be dismissed for lack of jurisdiction. Our order observed that the notice of appeal appeared premature because the district court had not entered a final written judgment adjudicating the rights and liabilities of all the parties and that the district court's order was not certified under NRCP 54(b). Our order cautioned appellants that failure to demonstrate appellate jurisdiction could result in the dismissal of their appeal. We also directed appellants' counsel to show cause why he should not be sanctioned for his failure to provide full and accurate responses to the docketing statement. Appellant's counsel was further instructed to file and serve an amended docketing statement in compliance with NRAP 14 within thirty days.

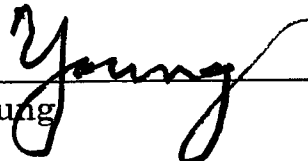
On July 15, 2002, appellants sought an extension of time, until August 15, 2002, to comply with our order to show cause; we granted this extension. Then, on August 16, 2002, appellants filed a motion for a


second extension of time to comply with this court's order. According to appellants, the district court had not yet ruled on their NRCP 54(b) motion and had indicated that it might not consider appellants' motion to dismiss the pending counterclaim. The majority of respondents have opposed this motion and point out that the district court denied appellants' NRCP 54(b) motion on August 15, 2002. Attached to respondents' opposition is a file-stamped copy of the district court's order denying the request for certification, which concludes that "certification, pursuant to NRS 54(b) is not proper. It is first necessary to decide the unresolved counterclaim, regarding Attorney's Fees and Costs."

As the district court has denied certification and has indicated a need to resolve the pending counterclaim, we conclude that a second extension of time is unwarranted. Additionally, we conclude that we lack jurisdiction of this appeal and therefore dismiss it. Finally, we sanction appellants' counsel \$250.00 for his failure to properly complete the docketing statement. Within thirty days from the date of this order, attorney Ian Christopherson shall pay to the Nevada Supreme Court Law Library the sum of \$250.00 and provide the clerk of this court with proof of payment.

It is so ORDERED.


_____, J.
Rose


_____, J.
Young


_____, J.
Agosti

cc: Hon. Steven R. Kosach, District Judge
Christopherson Law Offices
Ryan, Marks, Johnson & Todd
E. Terrance Shea
Wait Law Firm
Washoe District Court Clerk
Susan Southwick, Supreme Court Law Librarian