

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSEPH ROJAS, II, M.D.,  
Appellant,  
vs.  
ANTOINETTE ROSE ALDERMAN AND  
RICHARD E. ALDERMAN,  
Respondents.

No. 38084

FILED

JUN 07 2002

WALTER L. BLOOM  
CLERK OF SUPREME COURT  
BY *W. Bloom*  
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a May 21, 2001 judgment in favor of respondent Antoinette Alderman in a medical malpractice lawsuit. When our preliminary review of the documents submitted to this court pursuant to NRAP 3(e), along with the docketing statement, revealed a potential jurisdictional defect, we issued an order to show cause.

Our April 24, 2002 order gave appellant Joseph Rojas, II, M.D. "thirty days from the date of [the] order within which to show cause why this appeal should not be dismissed for lack of jurisdiction." In response to our order, Dr. Rojas claims that a district court order entered May 13, 2002, resolved the jurisdictional concern. Whereas Dr. Rojas's response asserts that a copy of the May 13, 2002 order is attached, there is in fact no order attached to the response filed with this court. As we stated in Moran v. Bonneville Square Associates,<sup>1</sup> a single written order entered by

<sup>1</sup>117 Nev. \_\_\_, \_\_\_, 25 P.3d 898, 900 (2001).

a district court can be dispositive as to whether an appeal has been perfected.

At present, the documents before us indicate that the district court has not entered a final written judgment adjudicating all the rights and liabilities of all the parties.<sup>2</sup> Given the record before us, the following claims or parties remain below: (1) Richard E. Alderman, Jr.'s claim against appellant for loss of consortium; and (2) Antoinette Alderman's claim against appellant for intentional infliction of emotional distress. Thus, the notice of appeal was untimely filed under NRAP 4(a) because it was prematurely filed, before the entry of a final written judgment, and is therefore of no effect.<sup>3</sup>

Given that Dr. Rojas has failed to establish, to our satisfaction, that we do in fact have jurisdiction over this appeal, we dismiss this appeal for lack of jurisdiction.<sup>4</sup> We note, however, that in the event that the district court has entered a final written judgment, a timely

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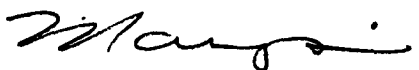
<sup>2</sup>See Lee v. GNLV Corp., 116 Nev. 424, 426, 996 P.2d 416, 417 (2000) (explaining that "a final judgment is one that disposes of all the issues presented in the case, and leaves nothing for the future consideration of the court, except for post-judgment issues").

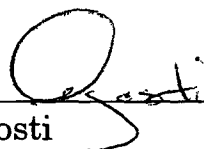
<sup>3</sup>See NRAP 4(a)(1); Rust v. Clark Cty. School District, 103 Nev. 686, 747 P.2d 1380 (1987).


<sup>4</sup>See Moran, 117 Nev. at \_\_\_, 25 P.3d at 899 (stating that "the burden rests squarely upon the shoulders of a party seeking to invoke our jurisdiction to establish, to our satisfaction, that this court does in fact have [appellate] jurisdiction").

appeal may be taken from that order.<sup>5</sup> In the event a new appeal is perfected, exemption from the NRAP 16 settlement program may be requested.

It is so ORDERED.

  
\_\_\_\_\_, C.J.  
Maupin

  
\_\_\_\_\_, J.  
Agosti

  
\_\_\_\_\_, J.  
Becker

cc: Hon. Nancy M. Saitta, District Judge  
Neil Galatz, Settlement Judge  
John H. Cotton & Associates, Ltd.  
Charles E. Kelly  
Manos & Michaelides  
Clark County Clerk

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<sup>5</sup>See NRAP 4(a)(1).