

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARY LOU BURKS,
Appellant,
vs.
JOSEPH L. KIENER, M.D.,
Respondent.

No. 88165

FILED

APR 26 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order granting a motion to enforce a settlement agreement in a personal injury and medical malpractice action. Second Judicial District Court, Washoe County; Lynne K. Jones, Judge.

Respondent has moved to dismiss this appeal for lack of jurisdiction and argues that because no final judgment has been entered, the order granting respondent's motion to enforce settlement is not appealable. Appellant argues in opposition that the order is a final judgment because the contemplated future stipulation or order dismissing the case would be a procedural order that has no substantive implications on the appealed order. In reply, respondent asserts that until a stipulation for dismissal is signed and filed with the district court, or there is some other dispositive ruling, matters potentially remain for the district court's consideration.

This court has jurisdiction over an appeal only where an appeal is authorized by statute or court rule. *Valley Bank of Nevada v. Ginsburg*, 110 Nev. 440, 444, 874 P.2d 729, 732 (1994). There is no statute or court rule that authorizes an appeal from a district court order granting a motion to enforce a settlement agreement. *See id.* And appellant's contention that the order is appealable as a final judgment lacks merit.

"[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 such as attorney's fees and costs." *Lee v. GNLV Corp.*, 116 Nev. 424, 426, 996 P.2d 416, 417 (2000). In *Valley Bank*, this court considered whether a district court order approving a proposed settlement constitutes a final judgment within the meaning of NRAP 3A(b)(1). *Valley Bank*, 110 Nev. at 444-46, 874 P.2d 729, 732-34. This court declined to construe the pre-dismissal order approving a proposed settlement agreement as a final judgment because a dismissal order, including a stipulation to dismiss, would constitute a final judgment. If the court were to consider the order approving a proposed settlement a final judgment, it "would create the potential that two 'final judgments' might exist in th[e] case—the order approving settlement and the stipulation to dismiss." *Id.* 110 Nev. at 445, 874 P.2d at 733.

The order challenged in the current appeal provides that "[a]fter payment, the case will be dismissed with prejudice upon either party's request." Although respondent contends that payment has already occurred, the district court must still approve respondent's pending request to dismiss the underlying action. Therefore, matters remain for the district court's consideration and the order cannot be construed as a final,

appealable judgment within the scope of NRAP 3A(b)(1). Accordingly, this court lacks jurisdiction and we grant the motion to dismiss and

ORDER this appeal DISMISSED.¹



Herndon

J.



Lee

J.



Bell

J.

cc: Hon. Lynne K. Jones, District Judge
Gabrielle Jeanne Carr, Settlement Judge
Powers Law
Homan, Stone & Rossi
Pollara Law Group
The Law Offices of William D. Cope
Washoe District Court Clerk

¹This court has considered the parties' remaining contentions and conclude that they lack merit or are unnecessary considerations for the resolution of this motion. The motion filed April 2, 2024, is granted. Appellant's transcript request was filed April 2, 2024.