

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEWART TITLE OF NEVADA AND
DAVID CURTIS,
Appellants,

vs.

STANLEY AMES, M.D.; JENNIFER
AVENA, M.D.; STEPHEN AVENA,
D.D.S.; JOHN BARTON; MARGARET
BARTON; MICHAEL CADILE; JOSEPH
CAPERONIS; MARION CAPERONIS;
MARISA CHANG; HUI WEN KAO;
HSUI-YEH CHAN; CHUN HUA CHIU;
KEN COHEN; LENORE COHEN;
ELIZABETH LYN DONLEY; DAVID
ERNST; HOWARD GREENSPON;
RICKI GREENSPON; CHRISTIAN
HANSEN; HERBERT HANSEN;
JIUNN-NAN HO; ROY HOLLISTER;
PAMELA HOLLISTER; TOM JONES;
CONITA OPP JONES; DONALD
KLEITZIEN, JR.; ROSALIE ASHNESS
KLEITZIEN; DANIEL KOCH, JR.;
DANIEL KOCH, SR.; KENNETH
LAND; PATRICK LEE; KARLENE LEE;
GERARD LOMBARDO; JOHN
LOMBARDO; FRANCES LOMBARDO;
VINCENT LOMBARDO; CARL
MANTHEI; AL MCCOURT; MARIA
MCCOURT; MICHAEL MILLER;
BARBARA MILLER; KEVIN MORLEY;
VICTOR HILL; STEPHEN PERRY; ILA
PERRY; HELEN ROSS; MARY
KATHRYN RUBINO; R & D
INVESTMENTS, LTD., A NEVADA
CORPORATION; GLEN SHAEFER;
JUDY SHAEFER; DANIEL SHARP;
VIRGIL SLADE; MELL SLADE;
MICHAEL STANCZYK; SHARON
STANCZYK; TRUMAN STROMBERG;

No. 38345

FILED

AUG 22 2002

JANE TTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

KAREN WILKES; JOHN YACKS;
SHARLENE YACKS; CINDY YOCUM;
WING T INVESTMENTS, A
CALIFORNIA GENERAL
PARTNERSHIP, EACH INDIVIDUALLY
AND DERIVATIVELY ON BEHALF OF
ELKHORN "40", A NEVADA GENERAL
PARTNERSHIP,
Respondents.

ORDER DISMISSING APPEAL

This is an appeal from an August 23, 2001 second amended judgment and other orders in a real property case.¹ When our preliminary review of the documents submitted to this court revealed several potential jurisdictional defects, we ordered appellants to show cause why their appeal should not be dismissed. It appeared that the district court had not entered a final written judgment adjudicating all the rights and liabilities of all the parties, and the district court did not certify its judgment as final pursuant to NRCP 54(b).² Specifically, various claims for relief were pleaded against Henry Weckesser, Walter Knoblock, Jack

¹Appellants do not contend that the district court's March 6, 2001 decision, the March 20, 2001 order approving good faith settlement, the June 25, 2001 and July 24, 2001 findings of fact and conclusions of law, or the July 23, 2001 denial of a motion to alter or amend the judgment are independently appealable. Appellant Stewart Title recognizes, though, that an appeal from a final judgment usually calls into question all prior, non-final orders and all other rulings which produced the judgment. See Consolidated Generator v. Cummins Engine, 114 Nev. 1304, 971 P.2d 1251 (1998).

²Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000); KDI Sylvan Pools v. Workman, 107 Nev. 340, 810 P.2d 1217 (1991); Rae v. All American Life & Cas. Co., 95 Nev. 920, 605 P.2d 196 (1979).

Matthews, and Jack E. Matthews & Co., Inc., but the second amended judgment does not mention these defendants. Further, the second amended judgment does not resolve Gary Yocum's and Thomas Smith's liability on the eighteenth claim for relief ("common law fraud").

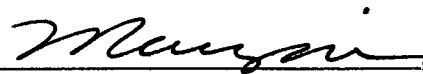
In response to the show cause order, appellant Stewart Title argues that the second amended judgment "substantially accomplished final resolution of all rights and liabilities presented." As to Henry Weckesser, Stewart Title points out that he was dismissed from the action with prejudice in a 1998 written order. Regarding Walter Knoblock, Stewart Title argues that his rights and liabilities were finally resolved by a 1997 Discharge of Debtor order from the United States Bankruptcy Court. But the district court has apparently not dismissed any of the claims pleaded against Walter Knoblock, and thus, they appear to remain pending below.³ As to Jack Matthews and Jack E. Matthews & Co., Inc., Stewart Title contends that their rights and liabilities were resolved by the district court's approval of a good faith settlement. This court has, however, declined to construe a pre-dismissal order approving a proposed settlement as finally resolving parties' rights and liabilities.⁴ Finally, Stewart Title concedes that the second amended judgment does not resolve the eighteenth claim for relief as pleaded against Gary Yocum and Thomas Smith. Although the claim against Yocum and Smith was mentioned in the district court's factual findings and legal conclusions to

³See Rae, 95 Nev. 920, 605 P.2d 196 (observing that when multiple parties are involved in an action, a judgment is not final unless the rights and liabilities of all parties are adjudicated).

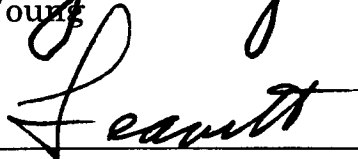
⁴Valley Bank of Nevada v. Ginsburg, 110 Nev. 440, 874 P.2d 729 (1994).

support a damages award, it was omitted from the liability section, and was not carried over into the judgment. Consequently, the claim remains pending below.

Because the rights and liabilities of all the parties have not been fully adjudicated, we lack jurisdiction to consider this appeal, and we ORDER this appeal DISMISSED.⁵


_____, C.J.
Maupin


_____, J.
Young


_____, J.
Leavitt

cc: Hon. Michael L. Douglas, District Judge
David Curtis
Walsh & Stone
Brenske & Christensen
Clark County Clerk

⁵We decline appellant David Curtis's request for an extension of time to establish this court's jurisdiction or for a remand allowing the district court to consider NRCP 54(b) certification of the second amended judgment. We note that appellants may again seek appellate review once the district court resolves the rights and liabilities of all the parties in a formal written judgment or order. Finally, we deny as moot appellant Stewart Title's June 27, 2002 motion to strike and respondents' July 10, 2002 motion for an extension of time to file an opposition. We direct the clerk of this court to return un-filed the opposition provisionally received on July 19, 2002.