

IN THE SUPREME COURT OF THE STATE OF NEVADA

COMSTAR CELLULAR NETWORK,
INC., A NEVADA CORPORATION;
INTERNATIONAL WIRELESS, INC., A
DELAWARE CORPORATION;
WIRELESS COMMUNICATIONS
TECHNOLOGY, INC., A DELAWARE
CORPORATION; TERRENCE P.
DILLON; BLAIZE KADURU; AND
DUNCAN E. WINE,

Appellants,

vs.

MALCOME HAYNES, AN
INDIVIDUAL; AND LIGHTWAVE,
LTD., A CAYMAN ISLANDS
CORPORATION,

Respondents.

No. 38498

FILED

OCT 11 2001

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

ORDER DISMISSING APPEAL

This is an appeal from the district court's findings of fact and conclusions of law and judgment entered on August 31, 2001. Respondents have moved to dismiss this appeal for lack of jurisdiction. Appellants have filed an opposition to respondents' motion. Having reviewed the motion and opposition, we conclude that this court lacks jurisdiction to entertain this appeal.

On August 31, 2001, the district court found appellants jointly and severally liable for compensatory damages in the sum of \$2,400,000.00, together with costs. Judgment was accordingly entered against appellants. Additionally, the court concluded that "punitive damages are warranted in this case," and directed the parties to appear at a hearing on Friday, October 12, 2001, "for the purpose of determining the amount of punitive damages to be assessed against [appellants]."

On September 10, 2001, respondents filed a motion to amend the judgment pursuant to NRCP 59(e). On September 13, 2001, respondents filed and served notice of entry of judgment. Appellants

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subsequently filed their notice of appeal on September 14, 2001, and the appeal was docketed in this court on September 20, 2001.

On September 26, 2001, respondents filed a motion to dismiss this appeal for lack of jurisdiction. Specifically, respondents assert that the judgment awarding compensatory damages was not a final judgment as the district court had scheduled the matter for further proceedings to determine punitive damages. Additionally, respondents note that the district court did not certify its partial judgment as final and appealable pursuant to NRCP 54(b). Respondents further assert, in any event, that the timely filing of their motion to amend the judgment pursuant to NRCP 59(e) terminated the time for filing a notice of appeal until service of written notice of entry of order resolving the motion. See NRAP 4(a)(2).

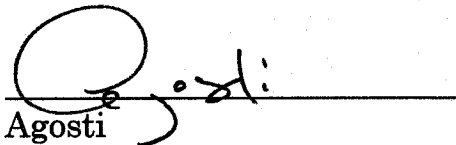
Appellants filed an opposition to the motion to dismiss on October 5, 2001. Appellants argue, among other things, that by filing a notice of entry of judgment, respondents "evinced an intention to abandon an award of punitive damages" and triggered the 30-day appeal period established by NRAP 4(a)(1).

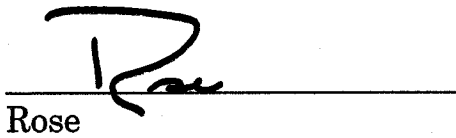
An aggrieved party may appeal from a "final judgment" entered in a district court action or proceeding. NRAP 3A(b)(1). A final judgment in an action or proceeding is "one that disposes of all the issues presented in the case, and leaves nothing for the future consideration of the court, except for post-judgment issues such as attorney's fees and costs." Lee v. GNLV Corp., 116 Nev. 424, 426, 996 P.2d 416, 417 (2000). In the instant case, the judgment awarding compensatory damages expressly scheduled an additional hearing on October 12, 2001, "for the purpose of determining the amount of punitive damages to be assessed against [appellants]." Further, the court did not certify its judgment as final and appealable pursuant to NRCP 54(b). Consequently, we conclude that the judgment awarding compensatory damages was not a final, appealable judgment and that this court lacks jurisdiction over this appeal. Having so concluded, we need not

reach the remaining contentions set forth in respondents' motion to dismiss.
We therefore grant respondents' motion and we dismiss this appeal.

It is so ORDERED.¹

 J.
Shearing

 J.
Agosti

 J.
Rose

cc: Hon. Sally L. Loehrer, District Judge
Michael D. Davidson, Settlement Judge
Kummer Kaempfer Bonner & Renshaw
Hale Lane Peek Dennison Howard & Anderson/Las Vegas
Katten Muchin & Zavis
Sachnoff & Weaver, Ltd.
Clark County Clerk

¹We vacate the Notice of Settlement Conference issued on October 2, 2001.