

IN THE SUPREME COURT OF THE STATE OF NEVADA

GLADIATOR CORP.,

Appellant,

vs.

EUGENE HASELTON AND THELMA
HASELTON,

Respondents.

No. 38574

FILED

NOV 15 2001

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

ORDER DISMISSING APPEAL

Gladiator Corporation filed a notice of appeal and an amended notice of appeal from a district court order, which the judge had not yet signed, denying its motion to enter judgment on an arbitration award. Our preliminary review of the documents submitted to this court pursuant to NRAP 3(e), together with the docketing statement, revealed two potential jurisdictional defects: the notice of appeal appeared to be premature and the designated order did not appear to be substantively appealable. We therefore ordered Gladiator to show cause why the appeal should not be dismissed for lack of jurisdiction.

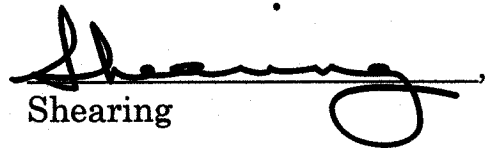
Gladiator has responded, and has demonstrated that it cured the first jurisdictional defect by first filing and serving written notice of the order's entry, and then filing a second amended notice of appeal. With respect to the order's substantive appealability, Gladiator notes that NRAP 3A(b)(2) provides that an appeal may be taken from an order granting or refusing a new trial. Gladiator asserts that the arbitration constituted a trial, and that the district court's order denying the motion for entry of judgment on the arbitration award, which effectively granted the Haseltons' request for a trial de novo, is an order granting a new trial.

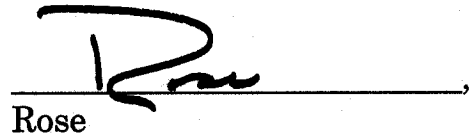
Gladiator is mistaken. There has not yet been a trial. After the parties participated in mandatory court-annexed arbitration, the Haseltons timely exercised their right to proceed to trial by filing a request for trial de novo under NAR 18. The district court's order simply allows

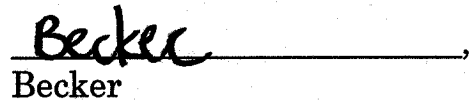
01-19048

this case to proceed to trial in the first instance.¹ Because this court has jurisdiction to consider an appeal only when the appeal is authorized by statute or court rule,² and Gladiator's appeal is not authorized by statute or court rule, we

ORDER this appeal DISMISSED.

 J.
Shearing

 J.
Rose

 J.
Becker

cc: Hon. Lee A. Gates, District Judge
Stanley W. Pierce
Eugene Haselton
Thelma Haselton
Dena Dalton, Court Reporter
Clark County Clerk

¹See NAR 18(E), which provides that, after the filing and service of a timely written request for trial de novo, the case shall be set for trial upon compliance with applicable court rules.

²See Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984).