

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANK YOUNG,
Appellant,
vs.
FIRST NATIONAL BANK OF NEVADA,
Respondent.

No. 38902

FRANK YOUNG,
Appellant,
vs.
FIRST NATIONAL BANK OF NEVADA,
Respondent.

No. 39175

FILED

SEP 03 2004

ORDER OF AFFIRMANCE

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

This is an appeal from a district court order granting a motion to dismiss. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

Appellant Frank Young filed a complaint in the district court against respondent, First National Bank of Nevada (First National Bank). The complaint arose from events that, according to Young, occurred before he accepted employment at First National Bank. After receiving Young's complaint, First National Bank sent Young a letter informing him about its mandatory arbitration policy. When Young refused to dismiss his claim, First National Bank filed a motion to dismiss with the district court, pursuant to NRCP 12(b)(5).

The district court granted First National Bank's motion to dismiss, holding that First National Bank's "Arbitration Policy . . . is clear, unambiguous and applies to all issues related to [Young's] employment." The district court also held that "Young is required to prosecute any claims he may have pursuant to First National's Grievance, Arbitration, and dispute Resolution Policy."

First National Bank contends that the district court's order granting its motion to dismiss is analogous to an order compelling arbitration and is, therefore, not appealable.¹ We disagree.

NRAP 3A(b) provides that "[a]n appeal may be taken: (1) From a final judgment in an action or proceeding commenced in the court in which the judgment is rendered." "[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."²

Here, the district court granted First National Bank's motion to dismiss pursuant to NRCP 12(b)(5), thereby resolving all issues before it.³ The district court did not compel Young to arbitrate his claims. Therefore, we conclude that we have jurisdiction.

Young argues that he did not knowingly and voluntarily enter into First National Bank's arbitration policy; that the district court erred in holding that the arbitration policy applied to pre-employment conduct; that some of his causes of actions listed in his complaint are not covered


¹See NRS 38.247(1), which provides that "[a]n appeal may be taken from: (a) An order denying a motion to compel arbitration." (First National Bank cites to NRS 38.205, which the Legislature repealed in 2001. NRS 38.247 is the new statute governing appeals and is part of Nevada's Uniform Arbitration Act, and contains nearly identical language as NRS 38.205.)


²Lee v. GNLV Corp., 116 Nev. 424, 426, 996 P.2d 416, 417 (2000).

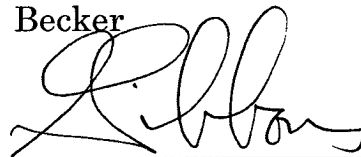
³See Vacation Village v. Hitachi America, 110 Nev. 481, 484, 874 P.2d 744, 746 (1994) (noting that "[o]n appeal from an order granting an NRCP 12(b)(5) motion to dismiss, '[t]he sole issue presented . . . is whether a complaint states a claim for relief.'" (quoting Merluzzi v. Larson, 96 Nev. 409, 411, 610 P.2d 739, 741 (1980), overruled on other grounds by Smith v. Clough, 106 Nev. 568, 569-70, 796 P.2d 592, 593-94 (1990))).

under First National Bank's arbitration policy; that First National Bank's arbitration policy was unconscionable; and that the district court erred in awarding First National Bank attorney fees and costs. After reviewing the briefs and the record, we conclude that Young's claims lack merit. Therefore, we

ORDER the judgment of the district court AFFIRMED.

 _____, C.J.
Shearing

 _____, J.
Becker

 _____, J.
Gibbons

cc: Hon. Janet J. Berry, District Judge
Mirch & Mirch
Robison Belaustegui Sharp & Low
Washoe District Court Clerk