

IN THE SUPREME COURT OF THE STATE OF NEVADA

AMERICANA LLC, F/K/A
CONSOLIDATED AMERICANA
CORPORATION,
Appellant,
vs.
PINE DEVELOPMENT, INC., A
NEVADA CORPORATION; JAN
BERNARD, INDIVIDUALLY; CLARK
COUNTY MANAGEMENT
CORPORATION, A NEVADA
CORPORATION; SCOTT STEWART,
INDIVIDUALLY; CENTRAL BUREAU
OF INVESTIGATION; DONN G.D.
BALIOTIS, INDIVIDUALLY; AND
EDWARD GUTIERREZ,
INDIVIDUALLY,
Respondents.

No. 39018

FILED

DEC 6 2002

WYNNE W. BLOOM
CLERK OF SUPREME COURT
J. Richards
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from an NRCP 54(b) certified order granting summary judgment in litigation over a commercial lease. On January 28, 2002, respondents Clark County Management Corporation, Jan Bernard, and Scott Stewart (collectively, "CCMC") moved to dismiss this appeal for lack of jurisdiction. Appellant, Americana LLC, filed an opposition. After reviewing the motion and opposition, this court, on June 26, 2002, directed CCMC to file a reply within thirty days.

After 100 days without a response, we ordered CCMC's counsel, Gary Schnitzer and Abran Vigil, to show cause why they should not be sanctioned for disregarding this court's June directive. Further, to reach the jurisdictional issue raised in CCMC's motion to dismiss, we also ordered Americana to show cause within thirty days why its appeal should not be dismissed because of a deficient NRCP 54(b) certification.


Schnitzer and Vigil responded to our show cause order, claiming that a reply to this court's June directive was unnecessary because the parties had agreed to settle the case and dismiss their claims. But it is not for counsel to decide when it is necessary to comply with an order from this court. Had Schnitzer and Vigil answered our directive and explained that a settlement and dismissal of claims were pending, we could have avoided further action on the motion to dismiss. Moreover, Schnitzer and Vigil were aware – before we issued our June directive – that their motion would become moot by the parties' pending settlement. Yet they remained silent and allowed this court to expend its valuable and limited judicial resources reviewing their motion in the first place. Accordingly, we reprimand attorneys Gary Schnitzer and Abran Vigil, and caution that similar conduct in the future will likely result in the imposition of monetary sanctions.

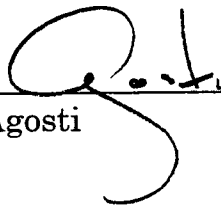
Americana responded to our show cause order by filing a stipulation to dismiss this appeal. The response was eleven days late. We caution Americana's counsel, Michael Stoberski, that failure to comply in the future with a timetable ordered by this court may result in the

imposition of monetary sanctions. If there is an inability to comply, counsel should seek an extension of time.

Nevertheless, we approve the stipulation, and we
ORDER this appeal DISMISSED.¹

 _____, C.J.
Young

 _____, J.
Rose

 _____, J.
Agosti

cc: Hon. Jeffrey D. Sobel, District Judge
Rawlings Olson Cannon Gormley & Desruisseaux
Kravitz Schnitzer & Sloane, Chtd.
Lorber/Pengilly
Marquis & Aurbach
Clark County Clerk

¹See NRAP 42(b). The January 28, 2002 motion to dismiss is denied as moot.