IN THE SUPREME COURT OF THE STATE OF NEVADA

HYUNDAI MOTOR AMERICA,
Appellant,
vs.
DIANE CHAMBERS,
Respondent.

No. 39584

FILED

MAR 20 2003

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY J. Richards

ORDER DISMISSING APPEAL

This is an appeal from a district court order entered on April 23, 2002, that awarded damages pursuant to a jury verdict and attorney fees, costs, and prejudgment interest. When our preliminary review of the docketing statement and the documents submitted to this court pursuant to NRAP 3(e) revealed a potential jurisdictional defect, we issued an order to show cause to appellant Hyundai Motor America (Hyundai), granting it thirty days within which to demonstrate that jurisdiction in this court is proper. Having reviewed Hyundai's response, as well as the reply filed by respondents, we conclude that we lack jurisdiction over this appeal.

We noted in our order to show cause that it appeared that a prior district court order entered November 13, 2001, was the final judgment, and if so, appellant's notice of appeal was untimely.

Hyundai argues that the November 13, 2001 order was not a final judgment because (1) Hyundai had a motion for judgment notwithstanding the verdict, or new trial pending before the district court as of the November 13, 2001 order; (2) the November 13, 2001 order was labeled "order" and not "judgment"; (3) the November 13, 2001 order did not comply with form 32 of the Nevada Rules of Civil Procedure; and (4) the district court granted Hyundai's motion for entry of judgment and entered a "final judgment" on April 23, 2002.

Hyundai's arguments are unpersuasive. A final judgment is one that disposes of all the issues presented in a case, and leaves nothing for future consideration of the court, except for post-judgment issues such as attorney fees and costs.[1] Whether the district court order is labeled an "order" or a "judgment" is not dispositive in determining finality; rather, finality is determined by what the order or judgment substantively accomplishes.[2] The November 13, 2001 order awarded the monetary amount determined by the jury, attorney fees, costs, and pre-judgment interest. All of the claims filed by the respondent were resolved. This order left nothing for future consideration of the court and is a final judgment.

Under NRAP 4(a)(2), Hyundai's motion for judgment notwithstanding the verdict, or new trial, terminated the thirty-day period for filing a notice of appeal until the district court resolved the motion in a written order. The motion did not affect the status of the district court's order as a final judgment; and once the district court denied the motion in a formal order, appellant could have appealed from the November 13, 2001 order. Under NRAP 4(a)(1) the thirty-day limit on filing a notice of appeal began on December 31, 2001, when Hyundai was served with notice of entry of the order denying its motion for judgment notwithstanding the verdict, or new trial.

Finally, in response to Hyundai's motion for entry of judgment, or in the alternative to set aside judgment, the district court entered an order entitled "judgment" on April 23, 2002. This second order

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

[2]Id.

is essentially identical to the first order. The only difference is that the April 23, 2002 order awarded an additional $1,196.56 in "pre-judgment" interest for the period from November 1, 2001, to April 30, 2002. The April 23, 2002 order does not affect the finality of the November 13, 2001 order, or the time in which an appeal from that order could be taken. In effect, the district court's entry of the April 23, 2002 order attempts to extend the time within which to file a notice of appeal, which the district courts are without authority to do.[3]

Consequently, Hyundai's notice of appeal filed May 2, 2002, is untimely, and this court lacks jurisdiction over this appeal. Accordingly, we

ORDER this appeal DISMISSED.

_____, J.
Rose

_____, J.
Maupin

_____, J.
Gibbons

cc: Hon. Allan R. Earl, District Judge
Persi J. Mishel, Settlement Judge
McNicholas Law Office
Kirk-Hughes & Associates
Clark County Clerk

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[3]See Walker v. Scully, 99 Nev. 45, 657 P.2d 94 (1993).