

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLES T. "BEAU" WISEMAN AND
CHRISTY WISEMAN,

Appellants,

vs.

WASHOE COUNTY; DEAN R. HINITZ,
P.H.D.; JOHN MACINTYRE; VISTAR;
RICHARD M. BALDO, P.H.D.; BETTY
SPRUILL; AND RICHARD
BLANCHARD,

Respondents.

No. 40900

FILED

APR 17 2003

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

ORDER DISMISSING APPEAL

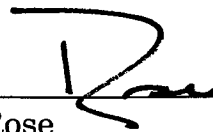
This is an appeal from a January 2, 2003, order granting motions to dismiss and a January 7, 2003, amended order. On February 10, 2003, respondent John MacIntyre filed a motion to dismiss this appeal and a request for sanctions. Mr. MacIntyre asserts that this court lacks jurisdiction to hear this appeal because the January 2, 2003, and January 7, 2003, orders do not resolve all claims in the underlying action and the orders have not been certified as final pursuant to NRCP 54(b). Mr. MacIntyre requests this court to sanction appellants for knowingly filing a premature notice of appeal. The remaining respondents have joined in Mr. MacIntyre's motion and additionally request that this appeal be removed from the settlement conference program.

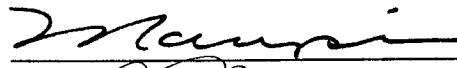
Appellants do not oppose the motion to dismiss or the request to remove this appeal from the settlement conference program, however, they oppose the request for sanctions. Appellants concede that the January 2, 2003, and January 7, 2003, orders do not resolve all claims in the underlying action and the district court has not certified the orders as final pursuant to NRCP 54(b). Appellants state, however, that they filed

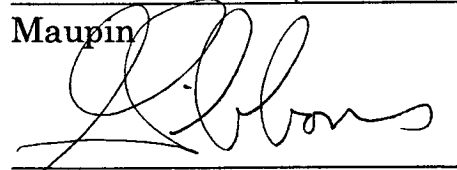
the notice of appeal out of an abundance of caution because the district court's "docket sheet . . . had an entry of 'case closed'" and because appellants' counsel had been informed by some of respondents' counsel that "it was their position that the case was over."

Our review of the documents submitted to this court indicates that claims remain pending before the district court and therefore this appeal was prematurely filed. See NRAP 3A(b)(1) and Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000). Accordingly, we grant respondents' unopposed motion to dismiss this appeal. Further, we conclude that the imposition of sanctions is not warranted and we deny respondents' request for sanctions. We deny, as moot, the request to remove this appeal from the settlement program.

It is so ORDERED.


_____, J.
Rose


_____, J.
Maupin


_____, J.
Gibbons

cc: Hon. Peter I. Breen, District Judge
Carolyn Worrell, Settlement Judge
Mirch & Mirch
Kilpatrick Johnston & Adler
Lemons Grundy & Eisenberg
Piscevich & Fenner
Washoe District Court Clerk