

IN THE SUPREME COURT OF THE STATE OF NEVADA

L. EARL HAWLEY,  
Appellant,

vs.

ROBERT E. VAN ORDSTRAND; CARL  
VOLKMAR; WOODRIDGE PARTNERS  
LIMITED PARTNERSHIP; WARD  
RITTER; WOODRIDGE PROPERTIES,  
INC.; AND WOODRIDGE VILLAS  
APARTMENTS/LAS VEGAS, LLC,  
Respondents.

No. 41395

**FILED**

FEB 18 2004

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

ORDER DISMISSING APPEAL

This is an appeal from an amended order adjudicating appellant's claims in intervention for previously earned attorney fees in respondents'/plaintiffs' dispute with third parties. When our preliminary review of the docketing statement and the documents submitted to this court pursuant to NRAP 3(e) revealed two potential jurisdictional defects, we ordered appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. Specifically, it appeared that the appeal was filed after the timely filing of a tolling motion under NRAP 4(a)(2), but before the tolling motion was formally resolved. In addition, because appellant's counsel did not fully and accurately complete the docketing statement and attach all required documents, we could not determine whether the district court had entered a final written judgment adjudicating all the rights and liabilities of all the parties. Accordingly,

we also directed counsel to show cause why he should not be sanctioned for his failure to comply with the docketing statement directives.

In his response to our show cause order, appellant conceded that his appeal was filed prematurely before the tolling motion filed under NRAP 4(a)(2) was formally resolved. Appellant explained that the tolling motion was denied in a May 5, 2003 hearing, and that he had recently submitted an order formally resolving the tolling motion to the district court for signature. On September 8, 2003, we received a copy of the September 3, 2003 order denying appellant's tolling motion, as well as a copy of an amended notice of appeal, filed on September 5, 2003.

However, in response to the issue of whether the district court has entered a final written judgment in this action, appellant admits that "no formal order or judgment has been entered among these other parties." Appellant argues that plaintiffs and defendants in the action below settled, and that this settlement constitutes a final judgment on their claims.<sup>1</sup> Yet appellant presents no written order formally settling these claims below, but rather points to language in the appealed order adjudicating appellant's claims, which recognizes both a settlement

---

<sup>1</sup>In addition, it appears from various documents that plaintiffs asserted cross-claims against appellant. Appellant's response to docketing statement 22 appears to indicate that "[o]ne plaintiff's cross-claim [was] ruled on in judgment," and the appealed order's caption includes "related claims." However, appellant has provided no version of plaintiffs' cross-claims filed in district court, and it thus appears that all cross-claims may not have been resolved.

between parties in a prior case and a settlement between the plaintiffs and defendants in the present matter. This language does not, however, constitute a final, written order adjudicating all of the rights and liabilities of the parties in this case; it merely mentions that the present matter resulted in a settlement.<sup>2</sup> Appellant provides no further support for his argument that the parties' settlement constitutes a final judgment despite the lack of any formal order adjudicating all of the claims and all of the rights and liabilities of all parties.<sup>3</sup>

Furthermore, on the first page of the docketing statement, this court impresses upon attorneys their obligations under NRAP 14 to complete the docketing statement properly and conscientiously and warns that sanctions may be imposed otherwise. Appellant's counsel has failed to submit the latest-filed version of plaintiff's cross-claims filed in the district court pursuant to directive 23 and to provide complete and clear responses to directives 8 and 22, and counsel has consequently wasted judicial resources of this court. Accordingly, attorney Edward Marshall

---


<sup>2</sup>Cf. Valley Bank of Nevada v. Ginsburg, 110 Nev. 440, 446, 874 P.2d 729, 733 (1994) (concluding that an order approving a settlement proposal does not constitute a final judgment under NRAP 3A(b)(1)).

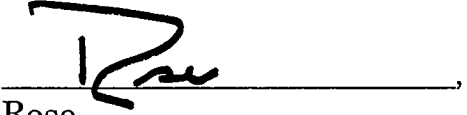
<sup>3</sup>See Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000); KDI Sylvan Pools v. Workman, 107 Nev. 340, 810 P.2d 1217 (1991); Rae v. All American Life & Cas. Co., 95 Nev. 920, 605 P.2d 196 (1979); Moore v. District Court, 77 Nev. 357, 364 P.2d 1073 (1961) (noting that an intervener becomes a party to an action once a complaint in intervention is filed pursuant to leave granted by the district court).


shall personally pay the sum of two hundred and fifty dollars (\$250.00) to the Supreme Court Law Library and provide the clerk of this court with proof of this payment within fifteen days of this order's date.

Because appellant has not shown that the district court has entered a final written judgment adjudicating all of the claims and all of the rights and liabilities in this case, or any reason why this order is independently appealable, we conclude that this court lacks jurisdiction to consider this appeal.<sup>4</sup> Accordingly, we

ORDER this appeal DISMISSED.<sup>5</sup>

 C.J.  
Shearing

 J.  
Rose

 J.  
Maupin

---

<sup>4</sup>Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984) (recognizing that this court has jurisdiction to consider an appeal only when the appeal is authorized by statute or court rule).

<sup>5</sup>We deny as moot respondents' attorney Ian Christopherson's motion to withdraw as counsel.

cc: Hon. Michelle Leavitt, District Judge  
Jerry J. Kaufman, Settlement Judge  
Edward G. Marshall  
Christopherson Law Offices  
Cohen, Johnson, Day, Jones & Royal  
Clark County Clerk  
Supreme Court Law Library