

IN THE SUPREME COURT OF THE STATE OF NEVADA

JESSE PUGH AND JEAN PUGH,
HUSBAND AND WIFE,

Appellants,

vs.

DONNA BENDER AND BARRY
BENDER, HUSBAND AND WIFE,
Respondents.

BARRY BENDER AND DONNA
BENDER, HUSBAND AND WIFE,
Appellants,

vs.

JESSE PUGH AND JEAN PUGH,
HUSBAND AND WIFE,
Respondents.

No. 42120

No. 42443

FILED

JUN 28 2004

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. P. [Signature]*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEALS

Docket No. 42120 is an appeal from a judgment on a jury verdict and a district court order denying a new trial. Docket No. 42443 is an appeal from a district court order awarding attorney fees in a lesser amount than had been requested. Eighth Judicial District Court, Clark County; Michael L. Douglas, Judge.

When our review of the docketing statements and the documents submitted to this court pursuant to NRAP 3(e) revealed a potential jurisdictional defect in both appeals, we ordered the appellants in both appeals to show cause why their appeals should not be dismissed. Specifically, it appeared that the validity of both appeals rested on whether a final judgment had been entered, and it appeared that several claims remained pending below. We also noted that our review of these matters had been hampered by counsel's failure to attach all required documentation to the docketing statements, and so we ordered counsel to

show cause why sanctions should not be imposed under NRAP 14(c) for failure to accurately complete the docketing statements.¹

Appellants filed responses that include more documentation than was attached to the docketing statements. But they concede that the Benders' cross-claims against James Knee, Bob Ray Plumbing, Atlas Plumbing and Robert Ray remain pending.

In their response, the Pughs argue that all claims as to them have been resolved, and so a final judgment has been rendered as to them. The Pughs rely on an 1877 case, Rhodes v. Williams,² for this argument. More recently, however, we have consistently held that a judgment is final only when it formally resolves all claims as to all parties.³ Also, the Pughs did not seek or obtain a certification of finality under NRCP 54(b) on the basis that they have been removed as a party.⁴ We conclude that we lack jurisdiction over the Pughs' appeal and so we dismiss the appeal in Docket No. 42120.

The Benders argue that their appeal is proper because an attorney fee award may be appealed as a "special order" under our case

¹See also Moran v. Bonneville Square Assocs., 117 Nev. 525, 25 P.3d 898 (2001); KDI Sylvan Pools v. Workman, 107 Nev. 340, 810 P.2d 1217 (1991).

²12 Nev. 20 (1877).

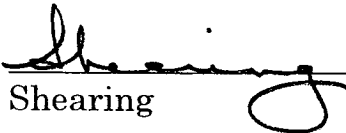
³See Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000); KDI Sylvan Pools, 107 Nev. 340, 810 P.2d 1217; Rae v. All American Life & Cas. Co., 95 Nev. 920, 605 P.2d 196 (1979).


⁴We note that Rhodes was decided before the Nevada Rules of Civil Procedure were adopted.

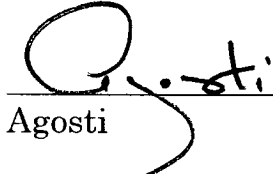
law.⁵ But the Benders omit a key phrase defining what “special orders” may be appealed: NRAP 3A(b)(2) (emphasis added) provides that only a “special order made after final judgment” may be appealed. Since no final judgment has been entered in this case, the attorney fee award may not be appealed as a special order after final judgment. Accordingly, we dismiss the appeal in Docket No. 42443 for lack of jurisdiction.

Having reviewed the parties’ responses, we conclude that sanctions are not warranted in these appeals. We caution counsel, however, to give proper attention to the docketing statement in the future.⁶

It is so ORDERED.

 _____, C.J.
Shearing

 _____, J.
Becker

 _____, J.
Agosti

cc: Eighth Judicial District Court Dept. 11, District Judge
Eugene Osko, Settlement Judge
Law Offices of Carl E. Lovell
Schofield and Associates
Schofield & Miller
Clark County Clerk

⁵See Gumm v. Mainor, 118 Nev. 912, 59 P.3d 1220 (2002); Smith v. Crown Financial Services, 111 Nev. 277, 890 P.2d 769 (1995).

⁶See Moran, 117 Nev. 525, 25 P.3d 898; KDI Sylvan Pools, 107 Nev. 340, 810 P.2d 1217.