

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT LEVEN; SANDY LEVEN;  
HAROLD ROME; AND RETA ROME,  
Appellants,  
vs.  
WHEATHERSTONE CONDOMINIUM  
CORP., INC., A NEVADA NON-PROFIT  
CORPORATION,  
Respondent.

No. 42268

**FILED**

MAY 19 2006

JANE W. M. BLOOM  
CLERK OF SUPREME COURT  
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is a proper person appeal from a district court order awarding respondent \$5,000.00 in attorney fees. Eighth Judicial District Court, Clark County; Mark R. Denton, Judge.

The district court entered its order awarding attorney fees on October 7, 2003. On October 11, 2003, appellants mailed the \$5,000.00 payment to respondent together with a letter stating that appellants wished to pay the judgment immediately to avoid collection fees and any extra costs. Thereafter, appellants filed a notice of entry of judgment on October 27, 2003 together with the "notice of judgment payment" and the notice of appeal in the district court. Respondent filed a "satisfaction of the judgment" in district court on December 2, 2003.

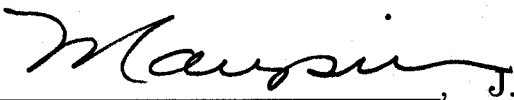
A payment of a monetary judgment before an appeal constitutes a waiver of the judgment debtor's appellate rights when the payment is intended as a compromise or settlement of the matter.<sup>1</sup> In such instances, the appeal is moot. An "actual or potential threat of

<sup>1</sup>Wheeler Springs Plaza, LLC v. Beemon, 119 Nev. 260, 265, 71 P.3d 1258, 1261 (2003).

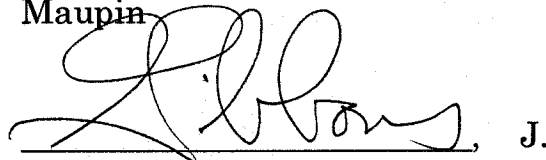
garnishment or execution is sufficient coercion to avoid a mootness challenge based upon payment of the judgment.”<sup>2</sup> In the absence of coercion, a party accepting “the benefits of a judgment waives the right to appeal, ‘because a party may not follow two legally inconsistent courses of action.’”<sup>3</sup>

The record before us demonstrates that appellants voluntarily paid the judgment within days of the district court’s order and that they intended to settle the matter at the time of payment. Specifically, on October 11, 2003 appellants wrote a letter to respondent acknowledging that the “payment in full” was intended to “pay and satisfy the judgment.” Moreover, in the same letter appellants demanded that respondent “remit a satisfaction of judgment.” Accordingly, under these circumstances, once appellants paid the judgment and accepted its benefits, appellants waived their right to appeal the district court’s decision. Consequently, appellants’ judgment payment renders this appeal moot, and we dismiss this appeal.

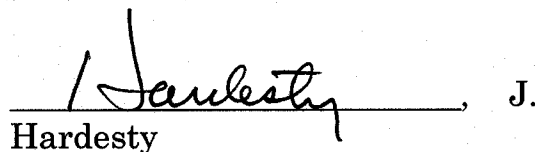
It is so ORDERED.

 J.

Maupin

 J.

Gibbons

 J.

Hardesty

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<sup>2</sup>Id.

<sup>3</sup>Id. at 264, 71 P.3d at 1260-61 (quoting Ford v. Ford, 105 Nev. 672, 675-76 n.1, 782 P.2d 1304, 1307 n.1 (1989)).

cc: Hon. Mark R. Denton, District Judge  
Robert Leven  
Sandy Leven  
Harold Rome  
Reta Rome  
Marquis & Aurbach  
Clark County Clerk