

IN THE SUPREME COURT OF THE STATE OF NEVADA

REPUBLIC WESTERN INSURANCE
COMPANY, AN ARIZONA
CORPORATION,

Appellant,

vs.

WSP ROOFING SYSTEMS, INC., A
CALIFORNIA CORPORATION,

Respondent.

No. 42712

FILED

MAY 17 2005

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

ORDER DISMISSING APPEAL

This court previously entered an order directing appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. Specifically, it appeared that the notice of appeal was untimely filed in the district court. See NRAP 4(a)(1) and NRAP 26(d). That order also directed California attorney Timothy A. Hill, counsel for appellant, to comply with the provisions of SCR 42.1.

In response to that order, Mr. Hill first filed a "Declaration" stating that he has been "earnestly searching for a new Nevada-licensed attorney to continue with [his] Pro Hac Vice admission." Mr. Hill stated that he needed additional time to associate with a member of the Nevada State Bar in order to comply with SCR 42.1. As of the date of this order, however, Mr. Hill has not done so.

Although he has not yet complied with SCR 42.1, Mr. Hill filed a response to the order to show cause regarding the potential jurisdictional defect.¹ In the response, Mr. Hill represents that “the inadvertent late filing with the Supreme Court of Nevada resulted from an error of the office accidentally filing the appellate notice with the trial court instead of directly with the Supreme Court.”

We note that a notice of appeal must be filed in “the district court” within 30 days from the date of service of the notice of entry of the order being appealed. NRAP 4(a)(1); Gerbig v. Gerbig, 60 Nev. 292, 108 P.2d 317 (1940). Here, Mr. Hill filed the notice of appeal in the district court on January 15, 2004. In that notice, Mr. Hill identifies the order being challenged on appeal as “the Order granting Dismissal for Failure to State a Claim, entered in this action on November 13, 2003.”² The notice of entry of order was served on appellant by mail on November 17, 2003.³


¹ Although the response is not signed by an active member of the State Bar of Nevada, we have considered the response. See NRAP 25(1)(e).

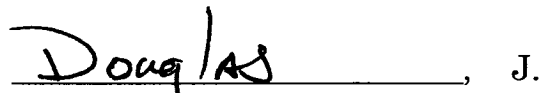
² Appellant’s docketing statement also identifies the order being appealed as the November 13, 2003, order.

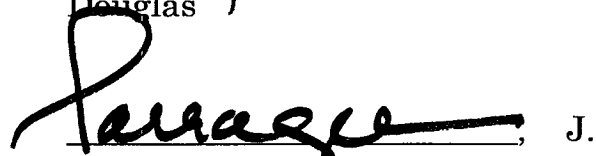
³ Appellant’s docketing also similarly indicates that the notice of entry of order for the order being appealed was served on appellant on November 17, 2003.

Accordingly, the notice of appeal was required to be filed in the district court by December 22, 2003. See NRAP 3(a); NRAP 4(a)(1); NRAP 26(a) and (c). Clearly, the notice of appeal was untimely filed. Accordingly, we dismiss this appeal. See NRAP 3(a).

It is so ORDERED.⁴


_____, J.
Maupin


_____, J.
Douglas


_____, J.
Parraguirre

cc: Hon. Jerome Polaha, District Judge
Robert G. Berry, Settlement Judge
Timothy A. Hill
Karla K. Butko
Washoe District Court Clerk

⁴ Because we have determined that the notice of appeal was untimely filed, we need not address Mr. Hill's arguments regarding the appealability of the order be challenged on appeal.