

IN THE SUPREME COURT OF THE STATE OF NEVADA

DIANNA EYLER,
Appellant,
vs.
BARRY L. FISHER, M.D.,
Respondent.

No. 44201

FILED

JAN 23 2006

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

ORDER DISMISSING APPEAL

This is an appeal from a district court order granting partial summary judgment on the issue of whether appellant's damages are subject to a cap, certified as a final judgment under former NRCP 54(b). Eighth Judicial District Court, Clark County; Ronald D. Parraguirre, Judge.

When our preliminary review of the docketing statement and the documents submitted to this court pursuant to NRAP 3(e) revealed a potential jurisdictional defect, we directed appellant to show cause why this appeal should not be dismissed. Specifically, the order did not appear amenable to certification under former NRCP 54(b) because it appeared that no party or separate claim for relief had been completely removed from the action.¹ Appellant's response to our order concedes that the order


¹See Mallin v. Farmers Insurance Exchange, 106 Nev. 606, 797 P.2d 978 (1990); Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984). NRCP 54(b) was amended effective January 1, 2005, and no longer permits the district court to direct the entry of a final judgment as to one or more but fewer than all of the claims in a multiple-claim case. The former version of NRCP 54(b) applies to this case, and provided, "[w]hen more than one claim for relief is presented in an action . . . or

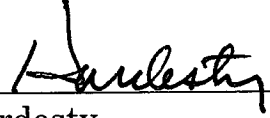
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appealed from did not completely remove any claim or party. Thus, the order was not amenable to certification under NRCP 54(b).² Accordingly, as we lack jurisdiction, we

ORDER this appeal DISMISSED.³


_____, J.

Maupin

_____, J.

Gibbons

_____, J.
Hardesty

cc: Eighth Judicial District Court Dept. 3, District Judge
Carolyn Worrell, Settlement Judge
Delanoy Schuetze & McGaha, P.C.
John H. Cotton & Associates, Ltd.
Clark County Clerk

... continued

when multiple parties are involved, the court may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties.”

²See id.

³We grant appellant’s motion for an extension of time to respond to our order to show cause.