

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARK ANDERSON,  
Appellant,  
vs.  
WESTLAND CREDITORS GROUP,  
INC., A NEVADA CORPORATION,  
Respondent.

No. 50254

**FILED**

FEB 11 2009

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order denying a motion to quash service of process and to set aside judgment pursuant to NRCp 60(b). Our preliminary review of the docketing statement, amended docketing statement, and the documents submitted to the court pursuant to NRAP 3(e) revealed a potential jurisdictional defect. Accordingly, this court entered an order directing appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. Appellant has filed a response to our order.

The underlying action concerned the sale of a general partnership and real property. Respondents' amended complaint asserted seven causes of action (claims) against six defendants. On February 5, 1997, the district court entered judgment resolving four of the seven claims. Specifically, judgment was entered on the four claims in favor of respondent as to three defendants, and against respondent as to two other defendants. The judgment did not, however, resolve or address the other three claims. Further, the judgment failed to adjudicate any of respondent's seven claims as to defendant Unique Funding, Inc.

On June 29, 1997, defendant Mark Anderson, the appellant in this appeal, filed a motion to quash service of summons and to set aside

the February 5, 1997, judgment pursuant to NRCP 60(b). The order was submitted to the district court over 10 years later on August 6, 2007. On August 22, 2007, the district court denied appellant Anderson's motion, and this appeal followed.

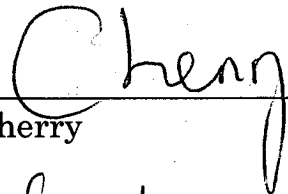
This court issued an order directing appellant to show cause why this appeal should not be dismissed. Specifically, we noted that the February 5, 1997, judgment did not resolve all claims against all parties in the proceeding below. Accordingly, it appeared that a final judgment had not been entered in the action below and that the order appealed from was interlocutory and not appealable.


Appellant has filed a response to our order to show cause. In regard to defendant Unique, appellant argues that the summons has expired, and thus "the matter would be dismissed for want of prosecution, and the statute of limitations has run." In regard to the unresolved claims, appellant admits that "[t]hese [pending] claims were not addressed by the lower court." Appellant states that he "believe[s] that these [pending] claims for relief were dismissed prior to trial," however, "[t]he district court made no record of such dismissal." Appellant further argues that "[e]ven if these claims were not dismissed,...[respondent] could not proceed with these claims due to the statute of limitations and the untimely prosecution of these claims for relief."

An appealable final judgment is any written order or judgment of the district court that has been entered by the clerk, and that finally resolves all claims against all parties to an action and leaves nothing for the district court's future consideration except for post-judgment issues such as attorney fees and costs. See Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000). As appellant has failed to demonstrate

to this court that a final judgment has been entered by the district court clerk, we conclude that the order appealed from is not appealable as a special order after final judgment, and therefore we lack jurisdiction to consider this appeal. See NRAP 3A(b)(2). Accordingly we,

ORDER this appeal DISMISSED.<sup>1</sup>

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Robert H. Perry, District Judge  
Philip A. Olsen, Settlement Judge  
Law Offices of Mark Wray  
Samuel P. Plunkett  
Robert E. Dickey Jr.  
Washoe District Court Clerk

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<sup>1</sup>Mr. Wray's motion to withdraw as counsel of record for appellant is denied as moot.