

IN THE SUPREME COURT OF THE STATE OF NEVADA

BULLHEAD CITY HOSPITAL
CORPORATION, AN ARIZONA
CORPORATION,

Appellant,

vs.

LOUISA OAKENELL, AN
INDIVIDUAL; AND LOUISA
OAKENELL, MD LLC, A LIMITED
LIABILITY COMPANY,

Respondents.

No. 60659

LOUISA OAKENELL, AN
INDIVIDUAL; AND LOUISA
OAKENELL MD LLC, A LIMITED
LIABILITY COMPANY,

Appellants,

vs.

BULLHEAD CITY HOSPITAL
CORPORATION, AN ARIZONA
CORPORATION,

Respondent.

No. 60766

FILED

DEC 04 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK

ORDER DISMISSING APPEALS

These are appeals from a post-judgment district court order denying attorney fees (Docket No. 60659) and from a judgment on the jury verdict and a post-judgment order denying a new trial (Docket No. 60766). Eighth Judicial District Court, Clark County; Gloria Sturman, Judge.

When our review of the documents before this court revealed potential jurisdictional defects with these appeals, we ordered the parties to show cause why these appeals should not be dismissed for lack of jurisdiction. Specifically, we pointed out that the appeal from the order denying attorney fees appeared untimely under both NRAP 4(a)(1)'s 30-day appeal period and NRAP 4(a)(2)'s 14-day appeal period for multiple

appeals,¹ and we noted that the appeal from the judgment and new trial order appeared untimely under NRAP 4(a)(1) and unable to proceed under NRAP 4(a)(3). See generally Silivanch v. Celebrity Cruises, Inc., 333 F.3d 355, 371 (2d Cir. 2003) (recognizing that the appellate court lacked jurisdiction over a cross-appeal under the analogous federal rule, FRAP 4(a)(3), when the notice of appeal was untimely filed); Cyrak v. Lemon, 919 F.2d 320, 322–24 (5th Cir. 1990) (explaining that there can be only one “first appeal” and that the extended deadline for multiple appeals applies to “other parties,” not the original appellants); Hasbro Industries, Inc. v. M/S St. Constantine, 705 F.2d 339 (9th Cir. 1983) (same).

The parties timely responded to our show cause order. In its response, Bullhead City Hospital Corporation, the appellant in Docket No. 60659, fails to demonstrate that its appeal was timely filed but nevertheless refuses to concede that it was untimely filed, asserting that, if it was untimely, it was only by a day or two and that the appeal should be allowed to proceed for equitable reasons. Louisa Oakenell and Louisa Oakenell, MD LLC, the appellants in Docket No. 60766, argue that NRAP 4(a)(2)’s 14-day deadline applies to render their appeal timely and that, if Bullhead City Hospital’s appeal is allowed to proceed, their appeal should likewise proceed, but they do not oppose the dismissal of both appeals.


Having considered the parties’ responses, we conclude that, for the reasons stated in our order to show cause and as the parties have not

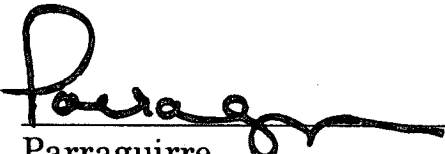
¹The first appeal filed in this matter was a March 19, 2012, notice of appeal from the judgment on the jury verdict and a post-judgment order denying a new trial. That appeal was dismissed for failure to pay the filing fee. See Oakenell v. Bullhead City Hospital Corp., Docket No. 60499 (Order Dismissing Appeal, April 19, 2012).

demonstrated otherwise, we lack jurisdiction over these appeals. Rust v. Clark Cty. School District, 103 Nev. 686, 747 P.2d 1380 (1987) ("The proper and timely filing of a notice of appeal is jurisdictional."). Accordingly, we

ORDER these appeals DISMISSED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. Gloria Sturman, District Judge
Ara H. Shirinian, Settlement Judge
Law Offices of Michael A. Hagemeyer
Mortenson & Rafie, LLP
Eighth District Court Clerk