

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CURRENT BEAUTY LOUNGE, LLC,
D/B/A LOOK STYLE SOCIETY, A
NEVADA LIMITED LIABILITY
COMPANY,
Appellant,
vs.
L MAKEUP AGENCY & INSTITUTE,
LLC, D/B/A L MAKEUP INSTITUTE, A
NEVADA LIMITED LIABILITY
COMPANY,
Respondents.

No. 81253-COA

FILED

SEP 22 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from an order granting summary judgment in a civil action. Eighth Judicial District Court, Clark County; Trevor L. Atkin, Judge.

After briefing on the merits had concluded in this case, a review of the documents before this court revealed a jurisdictional defect, as there were remaining parties and claims in the action below. Accordingly, on August 12, 2021, we ordered Current Beauty Lounge, LLC, to show cause why this appeal should not be dismissed.

After we issued the order to show cause, both parties briefed the jurisdictional issue. Current Beauty offered several explanations to support a conclusion that the district court's order was a final judgment. First, with its response to the order to show cause, Current Beauty produced an order in which the district court dismissed with prejudice all claims in which Current Beauty was a party. Current Beauty reasons that order resolved all substantive claims and any L Makeup claim still standing is implicitly resolved because the claims request indemnification as opposed

to advance independent causes of action. As a final point, Current Beauty argues L Makeup abandoned any potentially surviving claims, rendering all matters resolved below. We conclude these arguments are unavailing, and therefore dismiss the appeal for lack of jurisdiction.

To begin, Current Beauty did not obtain an order certified as final pursuant to NRCP 54(b). As a result, Current Beauty necessarily argues that the district court order is a final judgment. *See Lee v. UNLV Corp.*, 116 Nev. 424, 426, 996 P.2d 416, 417 (2000). Yet, in the order attached to Current Beauty's response, the district court explicitly noted that the order did not reach L Makeup's claims.


Moreover, Current Beauty is also incorrect to suggest those pending claims are duplicative requests for indemnification. In its cross-claims below, L Makeup requests compensation for its legal defense costs; however, it seeks those damages by alleging Great Wash (not a party on appeal) breached its contractual obligation to defend L Makeup. Thus, L Makeup's claims are not duplicative requests for indemnification; rather, the claims assert breaches of contractual terms and covenants and seek damages, which just so happen to be in the amount of legal expenses.

Finally, Current Beauty failed to show L Makeup abandoned any claim below. The Nevada Supreme Court has addressed this point and determined that a party does not forfeit its claim just because it "may not be inclined to pursue [its] counterclaim." *KDI Sylvan Pools, Inc. v. Workman*, 107 Nev. 340, 342-43, 810 P.2d 1217, 1219 (1991) (concluding a summary judgment order was not an appealable final judgment because claims were not abandoned and thus remained unresolved below). Without more, Current Beauty's allegation that L Makeup's claims are abandoned because L Makeup has failed to participate in the lawsuit is insufficient.

While Current Beauty resolved many portions of the jurisdictional defect, causes of action remain pending below and it has failed to obtain an order certified as final pursuant to NRCP 54(b). Without such an order, the existence of L Makeup's remaining claims below prove fatal to this court's appellate jurisdiction. See NRAP 4(a)(6) ("A premature notice of appeal does not divest the district court of jurisdiction."). Accordingly, we conclude that we lack jurisdiction to entertain this appeal, and we

ORDER this appeal dismissed.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Chief Judge, Eighth Judicial District Court
Eighth Judicial District Court, Department 8
Hayes Wakayama
Bendavid Law
Eighth District Court Clerk