

IN THE SUPREME COURT OF THE STATE OF NEVADA

7510 PERLA DEL MAR AVE. TRUST,  
Appellant,  
vs.  
BANK OF AMERICA, N.A.,  
Respondent.

No. 65069

**FILED**

APR 21 2014

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

*ORDER TO SHOW CAUSE*

On March 13, 2014, this court ordered appellant to show cause why this appeal should not be dismissed for lack of jurisdiction, as the appealed-from order did not resolve appellant's claims against all defendants below and did not contain a proper NRCP 54(b) certification. Appellant has timely responded, indicating that the district court issued an amended order on March 3, 2014, that included an NRCP 54(b) certification and that this certification should be deemed sufficient.


Having considered appellant's response, we remain unsatisfied that jurisdiction over this appeal is proper. In particular, the March 3 order's NRCP 54(b) certification, which this court reviewed before issuing the March 13 order to show cause, is insufficient. NRCP 54(b) provides that the district court may certify a judgment as final "*only* upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment." (Emphasis added). These requirements are not mere formalities, as appellant suggests. The requisite express determination and direction serve important purposes: according to the United States Court of Appeals for the Seventh Circuit, the initial, "discretionary component . . . serves both to give the district court virtually unreviewable discretion to refuse certification and to limit

its power to grant certification by requiring it to weigh the virtues of accelerated judgment against the possible drawbacks of piecemeal review,” *Local P-171, Etc. v. Thompson Farms Co.*, 642 F.2d 1065, 1071-72 (7th Cir. 1981) (internal citations omitted) (interpreting the analogous federal rule); see also *Hallicrafters Co. v. Moore*, 102 Nev. 526, 528-29, 728 P.2d 441, 443 (1986), while the entry of judgment component serves as an “unambiguous signal” to the parties, implicating time frames for filing appeals and other motions and for enforcing the judgment. *Local P-171*, 642 F.2d at 1072; see also *id.* at 1071 n.7. As we have previously noted, “[t]he determinations made pursuant to NRCP 54(b) are matters to be considered carefully and should not be entered routinely or as an accommodation to counsel.” *Knox v. Dick*, 99 Nev. 514, 516 n.2, 665 P.2d 267, 269 n.2 (1983); see also *Hern v. Erhardt*, 113 Nev. 1330, 1334 n.4, 948 P.2d 1195, 1197 n.4 (1997) (noting that an order that recites merely that the court grants “a 54(b) Judgment at the request of Plaintiff’s counsel so that the matter may be appealed to the Supreme Court,” without the required express determination, is improper). Thus, NRCP 54(b) recognizes that “[i]n the absence of such determination and direction, any order or other form of [interlocutory] decision, however designated, . . . shall not terminate the action as to any of the parties, and the order or other form of decision is subject to revision at any time before the entry of [final] judgment.”

As NRCP 54(b) requires express findings as to whether there exists just reason for delay, the order here was not properly or impliedly certified as final. Thus, jurisdiction over this appeal appears to remain lacking. Accordingly, appellant shall have 30 days from the date of this order within which to show cause why this appeal should not be dismissed

for lack of jurisdiction. We note that appellant may be able to cure this perceived jurisdictional defect by obtaining orders formally resolving the remaining claims or properly certifying the appealed-from order as final under NRCP 54(b). Failure to demonstrate that this court has jurisdiction will result in the dismissal of this appeal. The briefing schedule in this appeal shall remain suspended pending further order of this court.

It is so ORDERED.

 C.J.

cc: Law Offices of Michael F. Bohn, Ltd.  
Akerman LLP/Las Vegas