

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

DEC 15 2014

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

ORDER DENYING MOTION

The parties have filed a joint motion requesting that this case be remanded to the district court pursuant to *Foster v. Dingwall*, 126 Nev. 49, 228 P.3d 453 (2010), and dismissed without prejudice. As explained in *Foster*, this court will only consider a request for a remand after the district court certifies its intent to vacate, alter, or otherwise change an order or judgment challenged on appeal. 126 Nev. at 52-53, 228 P.3d at 455-46. Here, the parties represent that they have filed a motion in the district court asking that the order challenged on appeal be vacated, but that the motion remains pending before the district court. Because the district court has not yet entered an order certifying its intent, the motion for a remand pursuant to *Foster* is premature. Accordingly, the motion to remand and to dismiss this appeal without prejudice is denied. This denial is without prejudice to the parties' right to renew the motion for a remand if the district court certifies its intent to grant the motion to vacate its order.

The parties' request for an extension of time to file the answering brief pending resolution of the motion for remand is denied as moot. Respondent shall have 15 days from the date of this order to file

and serve the answering brief. Failure to comply with this order may result in the imposition of sanctions. *See* NRAP 31(d).

It is so ORDERED.

_____, C.J.

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