

IN THE SUPREME COURT OF THE STATE OF NEVADA

PARVIZ SAFARI, AN INDIVIDUAL;
MANDANA ZAHEDI, AN INDIVIDUAL;
AND ON BEHALF OF MEDITEX, LLC,
A NEVADA LIMITED LIABILITY
COMPANY,

Appellants,

vs.

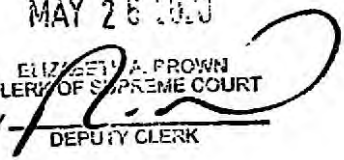
HAMID MODJTAHED, INDIVIDUALLY
AND DERIVATIVELY ON BEHALF OF
MEDITEX, LLC, A NEVADA LIMITED
LIABILITY COMPANY; AND
MOHAMMAD MOJTAHED,
INDIVIDUALLY AND DERIVATIVELY
ON BEHALF OF MEDITEX, LLC, A
NEVADA LIMITED LIABILITY
COMPANY,

Respondents.

No. 79926

FILED

MAY 26 2020

ELIZABETH A. FROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

*ORDER GRANTING MOTION TO DISMISS, DENYING REQUEST FOR
SANCTIONS, AND PARTIALLY DISMISSING APPEAL*

On March 27, 2020, appellants Parviz Safari and Mandana Zahedi filed a motion to voluntarily dismiss this appeal, with the parties to bear their own costs and attorney fees. Respondents partially oppose the motion, contending that the appeal is frivolous and that they are entitled to attorney fees as a sanction. Safari and Zahedi deny that the appeal is frivolous.

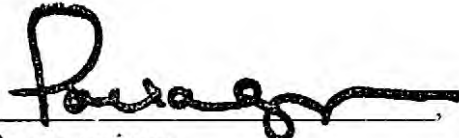
Pursuant to NRAP 38(b), if the court determines that an appeal is frivolous, it may, on its own motion, require the offending party to pay attorney fees as costs on appeal. Safari and Zahedi concede that the judgment being appealed was not final, but contend that the notice of appeal was filed in an abundance of caution because the issue of finality was

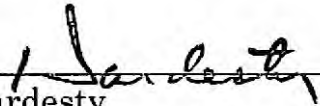
nuanced. Although their docketing statement erroneously represented that the judgment was final and adjudicated all claims against all parties, counsel subsequently determined that the judgment was not final and sought to dismiss the appeal.

We conclude that under the circumstances presented here, the filing of a purportedly premature appeal does not rise to the level of frivolity warranting the imposition of monetary sanctions under NRAP 38. Accordingly, respondents' request for sanctions is denied.

The motion to voluntarily dismiss appellants Safari and Zahedi is granted. Accordingly, this appeal is dismissed as to appellants Parviz Safari and Mandana Zahedi, only.¹ The caption shall be modified accordingly. The parties shall bear their own costs and attorney fees. NRAP 42(b).

It is so ORDERED.

 J.
Parraguirre

 J.
Hardesty

 J.
Cadish

¹ Attorneys Chad Clement and Thomas Stewart entered notices of appearance on behalf of Safari and Zahedi, and were therefore added as co-counsel. Attorney Andrew Flahive remains on this court's docket as co-counsel for Safari and Zahedi, and as sole counsel for Meditex, LLC. If the intent is also to dismiss this appeal as to Meditex, LLC, an appropriate motion shall be filed within 10 days of the date of this order.

cc: Hon. Mark R. Denton, District Judge
Kristine M. Kuzemka, Settlement Judge
Flahive & Associates, Ltd.
Marquis Aurbach Coffing
Wiley Petersen
Kolesar & Leatham, Chtd.
Eighth District Court Clerk