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### Summary of Simmons Self-Storage Partners, LLC v. Rib Roof, Inc., 127 Nev. Adv. Op. No. 6

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Nevada Law Journal, "Summary of Simmons Self-Storage Partners, LLC v. Rib Roof, Inc., 127 Nev. Adv. Op. No. 6" (2011). *Nevada Supreme Court Summaries*. 282.

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### **Summary**

An appeal from mechanic's lien action where the district court determined the lienable amounts, but failed to order the sale of the properties to satisfy the amount due under the lien.

### **Disposition/Outcome**

Appeal dismissed because the Court lacked jurisdiction where there was no final judgment entered by the district court.

### **Factual and Procedural History**

In these two consolidated actions, Rib Roof, Inc. ("Rib Roof") sought to foreclose on mechanic's liens on seven different properties, in addition to bringing claims for negligence and intentional misrepresentation against the appellants Southwest Steel Systems, LLC ("Southwest Steel Systems") and Southwest Steel Erectors, LLC ("Southwest Steel Erectors"). Of the seven properties, the district court released four of the liens upon surety bonds. The district court determined the liens in respect to the Simmons and Montecito properties were valid; however, the district court failed to allow for the sale of these properties or to otherwise address Rib Roof's request to foreclose on these properties. The district court dismissed the claim concerning the Peccole Mini Storage project by stipulation and order against all parties, except Southwest Steel entities. The district court's judgment did not address the claims against the Southwest Steel entities concerning the Peccole project.

### **Discussion**

In determining whether the district court's decision was ripe for appeal, the Court looked to NRS 108.239. The Court reasoned that a judgment is not final until the district court determines the amount of the lien and orders the sale of the property because NRS 108.239(10)<sup>1</sup> "anticipates that the final, appealable judgment will include language allowing the property to be sold; the prevailing party may then enforce the judgment by having the property sold." The Court concluded that in a mechanic's lien enforcement action, the district court does not reach a final judgment until it determines the lienable amount, in addition to determining whether the property's sale is to proceed. Thus, the district court's decision concerning the Simmons and Montecito properties did not receive a final judgment because the district court did not order that the properties be sold to satisfy the lien. The Court dismissed the appeal for lack of jurisdiction.

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<sup>1</sup> NRS 108.239(10) states: "On asserting the whole amount of the liens with which the property is justly chargeable, as provided in NRS 108.221 to 10.246, inclusive, the court shall cause the property to be sold in satisfaction of all liens and the costs of sale, including all amounts awarded to all lien claimants pursuant to NRS 108.237, and any party in whose favor judgment maybe rendered may cause the property to be sold within the time in the manner provided for sales on execution, issued out of any district court, for the sale of real property."

In a footnote the Court noted that the claims concerning the Peccole project were still pending because the claims were not resolved against the Southwest entities.<sup>2</sup>

### **Conclusion**

The Nevada Supreme Court does not have jurisdiction over appeals in mechanic's lien enforcement actions until the district court reaches a final judgment by determining both the lienable amount and ordering the property's sale to proceed.

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<sup>2</sup> Valley Bank of Nev. v. Ginsburg, 110 Nev. 440, 446, 876 P.2d 729, 733-34 (1994); Mallin v. Farmers Ins. Exch., 106 Nev. 606, 609, 797 P.2d 978, 980 (1990).