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Summary of *Yonker Construction, Inc. v. Hulme*, 126 Nev. Adv. Op. 54

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Yonker Construction, Inc. v. Hulme, 126 Nev. Adv. Op. 54 (December 30, 2010)¹

CIVIL PROCEDURE – APPELLATE JURISDICTION

Summary

The Court considered an appeal from a district court order expunging a mechanic’s lien under NRS 108.2275.

Disposition/Outcome

The Court concluded that the district court’s order releasing the lien was not fully carried out. The Court therefore lacked jurisdiction and the appeal was dismissed.

Factual and Procedural History

The district court ordered the release of a mechanic’s lien but failed to award attorney’s fees and costs at that time. Instead, the applicant was directed to file an affidavit and a verified memorandum of costs. Appellant challenged the dismissal of the lien.

Discussion

Although interlocutory orders are generally not appealable,² NRS 108.2275(8) expressly allows appeals related to subsection six of the statute.³ Subsection six governs hearings related to the “frivolous or excessive nature of a mechanic’s lien.”⁴ The district court’s order deferred awarding attorney’s fees and costs, rendering the order incomplete. The Court declined to broadly interpret exceptions to the final judgment rule. The Court decided that the NRS 108.2275(6)(a) requirement that attorney fees and costs awards be rendered before an appeal from the order “prevents the prospect of having two appeals from what is essentially the same statutory process.”⁵

Conclusion

A district court order releasing a mechanic’s lien under NRS 108.2275 is only appealable after the award for attorney’s fees and costs is rendered.

¹ By Justin Shiroff.

² *Consol. Generator v. Cummins Engine*, 114 Nev. 1304, 1312, 971 P.2d 1251, 1256 (1998).

³ NEV. REV. STAT. 108.2275(8) (2007).

⁴ *Yonker Constr., Inc. v. Hulme*, 126 Nev. Adv. Op. 54 at 2 (Dec. 30, 2010).

⁵ *Id.* at 3.