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**STATE OF MINNESOTA
IN COURT OF APPEALS
A12-0555**

Gregory A. Lasica, individually for himself and
derivatively on behalf of Home Savers Group of Minnesota, LLC, et al.,
Appellants,

vs.

Dale I. Francis, et al.,
Defendants,

Brian R. Thompson,
Respondent,

vs.

Home Savers Group of Minnesota, LLC,
Nominal Defendant.

**Filed December 3, 2012
Dismissed; motion denied
Collins, Judge***

Hennepin County District Court
File No. 27-CV-10-12557

Jill Clark, Jill Clark, LLC, Golden Valley, Minnesota (for appellants)

Christopher P. Parrington, Foley & Mansfield, PLLP, Minneapolis, Minnesota (for
respondent)

Considered and decided by Larkin, Presiding Judge; Schellhas, Judge; and Collins,
Judge.

* Retired judge of the district court, serving as judge of the Minnesota Court of Appeals
by appointment pursuant to Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

COLLINS, Judge

Appellants Gregory Lasica and David Sewell (1) challenge the district court's civil-contempt-of-court order and (2) move for summary reversal of the challenged order. Because Lasica has since cured his civil contempt and there is no final contempt order as to Sewell, we dismiss the appeal. Because motions for summary reversal before consideration of the parties' arguments on the merits are not authorized by the appellate rules, we deny the motion.

FACTS

Gregory Lasica and Brian Thompson settled their action for a court-ordered dissolution of their business relationship. Thompson agreed to pay \$75,000 to Lasica and be released from his personal guarantees for business debts. Thompson paid, but Lasica failed to provide the releases. Thompson moved for enforcement of the district court's order embodying the settlement agreement. On January 6, 2012, the district court found that Lasica breached the agreement and ordered Lasica and the business entities, through the receiver, David Sewell, to (1) defend and indemnify Thompson from claims arising from the guarantees and (2) deposit \$75,000 into court by January 13, 2012. After Lasica and Sewell failed to comply, Thompson sought to compel compliance with the settlement-agreement order through contempt sanctions. On March 13 the district court found Lasica and Sewall in contempt of court for failing to comply with its prior order. The court noted that "[t]hey will appear before this court and are entitled to, and will receive, a full and fair hearing relating to all aspects of the contempt, including an

evidentiary hearing.” Following a hearing on March 28, the district court reiterated the finding of civil contempt of court against Lasica and ordered his detention. The district court conditioned the order subject to Lasica’s “opportunity to show cause and to purge his contempt at an evidentiary hearing” scheduled on March 30. At that hearing, Lasica failed to make the requisite showing, the district court issued its final contempt order, and Lasica was remanded to custody. Lasica was released from custody on April 17, 2012, after the district court found that he fulfilled the purge conditions. Nothing affecting Sewell appears in the record of contempt proceedings after March 13, 2012. This appeal followed.

DECISION

I.

Lasica argues that the district court improperly held him in civil contempt of court and requests that “all conditions, purge conditions, demands for bond, bench warrants, and other restraints on [his liberty] be voided.” It is well established that we will hear only live controversies and will not pass on the merits of a particular question merely for the purpose of setting precedent. *In re Inspection of Minn. Auto Specialties, Inc.*, 346 N.W.2d 657, 658 (Minn. 1984). When, pending an appeal, an event occurs which makes a decision on the merits unnecessary or an award of effective relief impossible, we will dismiss the appeal as moot. *Id.* More specifically, when one is held in contempt of court and later purges the contempt, the propriety of the contempt order is moot and we will dismiss the appeal. *Clement v. Clement*, 295 Minn. 569, 569-70, 204 N.W.2d 819, 819 (1973).

On March 28, 2012, the district court reiterated the conditional finding of contempt made on March 13. On both March 28 and 30, the district court provided Lasica the opportunity to present exonerating evidence. The district court found Lasica in civil contempt of court in a final contempt order issued March 30, 2012, and Lasica remained in custody. A contempt-review hearing was held on April 13. The district court issued its contempt-purge order on April 17, 2012, effectively providing the relief sought by Lasica in this appeal. The order stated that “Lasica demonstrated that he has complied with the purge conditions,” and Lasica was released from custody. Lasica having purged his contempt, we do not consider the propriety of the final contempt order. *See Clement*, 295 Minn. at 569-70, 204 N.W.2d at 819. Because the district court’s April 17, 2012 order rendered Lasica’s appeal of his civil contempt of court moot, we dismiss Lasica’s appeal.

II.

Sewell, the receiver for the business entities involved in the underlying litigation, also argues on appeal that the district court improperly held him in civil contempt of court. Sewell requests that “all conditions, purge conditions, demands for bond, bench warrants, and other restraints on [his liberty] be voided.” We review contempt orders only after the district court issues a final contempt order, rather than a conditional contempt order. *Bowman v. Bowman*, 493 N.W.2d 141, 144 (Minn. App. 1992). A conditional contempt order imposes a conditional sentence after a finding of contempt. *Rohrman v. Moore*, 423 N.W.2d 717, 721 (Minn. App. 1988). A conditional contempt

order provides a method by which the contemnor may purge the contempt and is not a final appealable order. *Tell v. Tell*, 383 N.W.2d 678, 684 (Minn. 1986).

In its March 13, 2012 order, the district court stated that “Mr. Sewell is in contempt of Court for his failure to comply with the Court’s March 6, 2012 Order as detailed above.” However, the order also provided that Lasica and Sewell “will appear before this Court and are entitled to, and will receive, a full and fair hearing relating to all aspects of the contempt, including an evidentiary hearing.” Lasica was the sole subject of the district court’s subsequent orders, and Sewell was no longer mentioned in the contempt proceedings. It does not appear from the record before us that Sewell ever had a full contempt hearing or was subjected to a final contempt order; whereas Lasica had a full contempt hearing and was issued a final contempt order.

Sewell apparently assumes that the March 13 order is a final contempt order. But because there is no record of an evidentiary hearing leading to a final contempt order against Sewell, the district court’s March 13, 2012 order is no more than a conditional contempt order. In the absence of a final contempt order against Sewell, and because a conditional contempt order is not appealable, we dismiss Sewell’s appeal.

III.

On the morning of oral argument before this panel, appellants’ counsel requested the immediate issuance of an order opinion reversing the orders challenged on appeal. Motions for summary reversal, prior to consideration of the parties’ arguments on the merits, are not authorized by the appellate rules. *In re Estate of Magnus*, 436 N.W.2d 821, 822 (Minn. App. 1989). The panel declined to address the request on an

emergency basis. Appellants' counsel failed to appear for the scheduled oral argument, but thereafter filed a motion seeking the same relief. Counsel failed to provide the required proof of service of the motion. *See* Minn. R. Civ. App. P. 125.04 (requiring that all papers presented for filing include written admission of service or affidavit of service), 127 (requiring that "proof of service" be filed with all motions). "Motions made after submission of a case will be referred to the panel to which the case is assigned." Minn. App. Spec. R. Pract. 8. For the reasons set forth in this opinion, we conclude that Lasica's challenges to the final contempt order are moot and that there is no final contempt order as to Sewell. Therefore, we deny the motion for summary reversal in its entirety.

Dismissed; motion denied.