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IN THE SUPREME COURT OF THE STATE OF MONTANA

No. 00-451

HEALTHY MOTHERS, HEALTHY )  
 BABIES, INC., a Montana Corporation, )  
 )  
 Defendant and Appellant, )  
 )  
 v. )  
 )  
 MARCIA DIAS, )  
 )  
 Plaintiff and Respondent. )

ORDER

JOHN OLD ELK, JUNE GOODLEFT, and )  
 DANA ZIMMER, )  
 )  
 Plaintiffs and Appellants, )  
 )  
 v. )  
 )  
 HEALTHY MOTHERS, HEALTHY )  
 BABIES, INC., a Montana Corporation, et al., )  
 )  
 Defendant and Respondent. )

01-402

**FILED**

JUN 12 2001

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

It has come to the attention of this Court that two separate appeals are being pursued under the captioned cause number. The first is the appeal of the appellant Healthy Mothers, Healthy Babies, Inc. (HMHB) from the District Court's order of May 4, 2000, denying its motion for new trial and from the notice of entry of judgment filed by the plaintiff and respondent, Marcia Dias in the District Court. HMHB's notice of appeal was filed in this Court on June 5, 2000.

The second appeal is being pursued by Plaintiffs and Appellants, John Old Elk, June

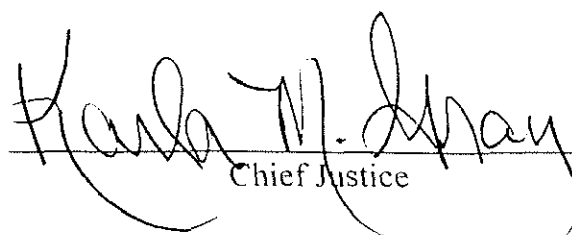
Goodleft, and Dana Zimmer (Old Elk, et.al.). They filed their notice of appeal in the District Court on October 5, 2000, from the District Court's grant of summary judgment in favor of HMHB, and from the District Court's denial of their Rule 59(g) motion. Their notice of appeal was filed in this Court on November 29, 2000.

As indicated above, the first appeal stems from a judgment in favor of Marcia Dias and against HMHB following a trial on the merits. The second appeal stems from an entry of summary judgment in favor of HMHB and against Old Elk, et.al., on their claims against HMHB. Accordingly, the two appeals involve separate and distinct factual and legal issues, which will require independent consideration. For this reason, and in the interests of order and economy,

THE CLERK OF THIS COURT IS HEREBY DIRECTED to assign to the appeal presented by Old Elk, et.al., as appellants, against HMHB, as respondents, a separate cause number from the appeal involving the claims between HMHB, appellant, and Marcia Dias, respondent.

IT IS FURTHER ORDERED that the Clerk of this Court shall notify all parties in both appeals of the new cause number being assigned to the Old Elk, et.al. appeal, and the parties to the Old Elk, et.al. appeal are hereafter directed to utilize the newly-assigned cause number on all future filings in this Court.

DATED this 12<sup>th</sup> day of June, 2001.

  
Chief Justice

Patricia Catter

Prof. Trawick

James

Jim Rice

Justices

