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STATE OF NORTH DAKOTA

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

2024 ND 81

Timothy Morales, Plaintiff and Appellant

v.

Weatherford U.S., L.P.; Defendant and Appellee

and

Wilhoit Properties, Inc., and Ruby Junewal; Defendants

No. 20230110

Appeal from the District Court of Williams County, Northwest Judicial District, the Honorable Paul W. Jacobson, Judge.

REVERSED AND REMANDED WITH INSTRUCTIONS.

Opinion of the Court by Bahr, Justice, in which Justices McEvers and Tufte joined. Justice Crothers filed an opinion specially concurring, in which Chief Justice Jensen joined.

Jeffrey S. Weikum (argued), Bismarck, ND, and Justin L. Williams (on brief), Corpus Christi, TX, for plaintiff and appellant.

Zachary R. Eiken (argued) and Amy M. Oster (appeared), Bismarck, ND, for defendant and appellee.

Morales v. Weatherford U.S.
No. 20230110

Bahr, Justice.

[¶1] Timothy Morales appeals from a judgment entered after the district court granted summary judgment to defendant Weatherford U.S., L.P. dismissing Morales's claims against Weatherford. Morales also appeals the court's subsequent order denying his request the court adopt a stipulation between Morales and defendant Ruby Junewal. The stipulation dismissed Morales's claims against Junewal with prejudice, and was accompanied by a proposed order and judgment dismissing with prejudice Morales's claims against Junewal. The court treated the request to adopt a stipulation (request) as a N.D.R.Civ.P. 60(b) motion.

[¶2] We conclude the district court misapplied the law when it treated Morales's request as a Rule 60(b) motion and held it "no longer has jurisdiction." We reverse the order denying the request, retain jurisdiction under N.D.R.App.P. 35(a)(3)(B), and remand with instructions that, within twenty days from the filing of this opinion, the court enter a single final judgment adjudicating all the claims and all the parties' rights and liabilities.

I

[¶3] On the evening of December 29, 2015, Morales was a pedestrian walking along the right side of a roadway within the Weatherford Distribution Facility located in Williston. At that time, Junewal was driving a motor vehicle within the facility. There is evidence it was dark and snowing or had been snowing. Junewal's vehicle struck Morales while he was walking on the roadway owned by Weatherford, causing injuries to Morales.

[¶4] In 2019, Morales commenced this action alleging claims for negligence against Weatherford, Junewal, and Junewal's employer, Wilhoit Properties, Inc. Morales also asserted allegations of premises liability against Weatherford, alleging Weatherford was negligent by failing to install proper lighting on the premises, install road signs, or designate sidewalks near the road. In 2020, the district court dismissed Morales's claims against Wilhoit

with prejudice after the parties did not oppose Wilhoit's motion for summary judgment; the clerk entered a judgment dismissing Wilhoit with prejudice.

[¶5] In 2021, Weatherford moved for summary judgment arguing Weatherford owed no duty to Morales because Morales knew of the obvious danger posed by vehicles on the roadway. On October 21, 2021, the district court entered an order granting Weatherford's summary judgment motion.

[¶6] On October 22, 2021, Junewal notified the court Morales and Junewal reached a settlement. The court allowed Morales and Junewal 30 days to file concluding documents on the settlement; neither Morales nor Junewal filed concluding documents.

[¶7] On November 22, 2021, the district court entered an order for judgment under its order granting Weatherford summary judgment; the clerk entered a judgment dismissing Morales's claims against Weatherford with prejudice. Morales appealed.

[¶8] In January 2022, this Court dismissed Morales's appeal because claims against Junewal remained pending in the district court. In July 2022, Morales and Junewal stipulated to dismiss the remaining claims against Junewal without prejudice. Weatherford was not a party to the stipulation. On July 22, 2022, the court adopted the stipulation and entered an order for judgment; the clerk entered a judgment dismissing Morales's claims against Junewal without prejudice. Morales appealed.

[¶9] After briefing and oral argument on appeal, this Court temporarily remanded the case to the district court "for the limited purpose of confirming whether all parties agree to the entry of an amended judgment dismissing all claims against Junewal with prejudice and, if appropriate, entering an amended judgment to this effect." In November 2022, the court entered an order after remand indicating Weatherford would not agree to entry of an amended judgment dismissing all claims against Junewal with prejudice and, therefore, it was not appropriate for the court to enter an amended judgment. In December 2022, we dismissed Morales's appeal as "not appealable at this time."

[¶10] In February 2023, Morales and Junewal filed in the district court a stipulation of dismissal with prejudice, a request the court adopt the stipulation, and a proposed order and proposed judgment of dismissal with prejudice, dismissing the complaint against Junewal with prejudice. Weatherford objected to the stipulation for a dismissal with prejudice. Morales responded and submitted evidence showing Morales executed a Pierringer Release and Settlement Agreement on August 22, 2022, and Junewal's counsel forwarded a settlement draft to Morales's counsel on August 25, 2022. On February 22, 2023, the court entered an order concluding there was no basis for relief under N.D.R.Civ.P. 60 and denied Morales's request for an order of dismissal of Junewal with prejudice. Morales again appealed.

II

[¶11] Morales appeals from both the district court's order denying his request and the judgment dismissing his claims against Weatherford with prejudice. Because of our grounds for reversing the court's order denying Morales's request, we do not at this time address Morales's challenge to the judgment dismissing his claims against Weatherford.

[¶12] The district court treated Morales's request as a motion under N.D.R.Civ.P. 60(b). Rule 60(b) allows the district court to relieve a party from "a final judgment." We review the court's denial of a Rule 60(b) motion for an abuse of discretion. The court abuses its discretion when it acts in an arbitrary, unreasonable, or unconscionable manner, or when it misinterprets or misapplies the law. *Olson Fam. Ltd. P'ship v. Velva Parks, LLC*, 2023 ND 216, ¶ 6, 997 N.W.2d 840.

[¶13] In its order denying Morales's request, the district court concluded, "When a Court dismisses a case without prejudice, the action is ended and the Court no longer has jurisdiction." It then wrote it would have to be convinced Rule 60(b)(5) or (6) are applicable to relieve Morales of the judgment dismissing the claims against Junewal without prejudice. Rule 60(b)(5) and (6) provide a court may relieve a party from a "final judgment" if:

> (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
> (6) any other reason that justifies relief.

The court then wrote there is no basis for relief under Rule 60 and denied Morales's request.

[¶14] We conclude the district court misapplied the law when it determined Morales had to satisfy Rule 60(b)(5) or (6) to obtain his requested relief. We further conclude the court misapplied the law when it found the judgment dismissing Morales's claims against Junewal without prejudice divested it of jurisdiction over the case.

A

[¶15] The district court misapplied the law when it determined Morales had to satisfy Rule 60 to obtain his requested relief.

[¶16] "The right to appeal in this State is governed solely by statute." *Sanderson v. Walsh Cnty.*, 2006 ND 83, ¶ 5, 712 N.W.2d 842. Under N.D.C.C. § 28-27-01, "[a] judgment or order in a civil action . . . in any of the district courts may be removed to the supreme court by appeal as provided in [N.D.C.C. ch. 28-27]." "Only those judgments and decrees which constitute a final determination of the rights of the parties to an action and those orders enumerated in N.D.C.C. § 28-27-02 are appealable." *Gonzalez v. Perales*, 2023 ND 145, ¶ 6, 994 N.W.2d 183 (quoting *Frontier Enters., LLP v. DW Enters., LLP*, 2004 ND 131, ¶ 3, 682 N.W.2d 746).

[¶17] Rule 60(b), N.D.R.Civ.P., applies to final judgments or orders. A final judgment is a decree, order, or judgment "from which an appeal lies." N.D.R.Civ.P. 54(a).

[¶18] In December 2022, we dismissed Morales's earlier appeal as "not appealable at this time." We did so because the judgment appealed from was not a final judgment. The district court has not issued a final judgment since the December 2022 dismissal. Thus, there is still no final judgment. Because

Morales's request did not relate to a final judgment, the court erred in addressing Morales's request under Rule 60(b) and requiring Morales to satisfy Rule 60(b)(5) or (6). It would be incongruent to conclude the court's July 2022 judgment dismissing Morales's claims against Junewal without prejudice is a final judgment for purposes of N.D.R.Civ.P. 60(b), but not a final judgment for purposes of our appellate jurisdiction. This Court looks to what constitutes a "final" order for appellate jurisdiction purposes in deciding finality for applying N.D.R.Civ.P. 60(b). *See, e.g., Riak v. State*, 2015 ND 120, ¶¶ 9-10, 863 N.W.2d 894; *see also* 12 James Wm. Moore et al., *Moore's Federal Practice* § 60.23 (3d ed. 2023) ("The standard test for whether a judgment is 'final' for Rule 60(b) purposes is usually stated to be whether the judgment is sufficiently 'final' to be appealed.").

B

[¶19] The district court misapplied the law when it found the judgment dismissing Morales's claims against Junewal without prejudice divested it of jurisdiction over the case.

[¶20] Rule 54(b), N.D.R.Civ.P., recognizes a district court "may direct entry of a final judgment against only some of the parties to a litigation, but until final judgment is entered *all orders are subject to revision*." *Dinger ex rel. Dinger v. Strata Corp.*, 2000 ND 41, ¶ 8, 607 N.W.2d 886 (emphasis added). Rule 54(b), provides:

> If an action presents more than one claim for relief, whether as a claim, counterclaim, crossclaim, or third-party claim, or if multiple parties are involved, the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay. Otherwise, any order or other decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and *may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities.*

(Emphasis added.)

[¶21] This Court generally will not consider an appeal in a multi-claim or multi-party action that disposes of fewer than all claims against all of the parties unless the district court has first independently assessed the case and determined a certification under N.D.R.Civ.P. 54(b) is appropriate. *Whitetail Wave LLC v. XTO Energy, Inc.*, 2022 ND 171, ¶ 6, 980 N.W.2d 200; *Dixon v. Dixon*, 2021 ND 94, ¶ 9, 960 N.W.2d 764. Rule 54(b) preserves our long-standing policy to discourage piecemeal appeals in multi-claim or multi-party cases. *Dixon*, at ¶ 9.

[¶22] Here, the district court entered three judgments, each dismissing a different party: Wilhoit with prejudice; Weatherford with prejudice; and Junewal without prejudice. The court did not direct entry of a final judgment under Rule 54(b) as to any of the parties or claims. Thus, the court's decisions, even when designated as "judgments," did "not end the action as to any of the claims or parties[.]" N.D.R.Civ.P. 54(b). The court also never entered a judgment adjudicating all of the claims. *See* N.D.R.Civ.P. 54(a) ("'Judgment' as used in these rules includes a decree and any order from which an appeal lies."). Absent a Rule 54(b) certification or final judgment adjudicating all of the "claims and all the parties' rights and liabilities," the court could revise any of its decisions. *Id.*

[¶23] The district court misapplied the law when it determined it lacked jurisdiction due to the July 2022 judgment of dismissal without prejudice. Citing *Albrecht v. Metro Area Ambulance*, 1998 ND 132, 580 N.W.2d 583, the court wrote, "When a Court dismisses a case without prejudice, the action is ended and the Court no longer has jurisdiction." *Albrecht* does not support the conclusion the court lacked jurisdiction under the facts of this case.

[¶24] In *Albrecht*, the plaintiff requested "her *case* be dismissed without prejudice." 1998 ND 132, ¶ 4 (emphasis added). The district court entered an order dismissing the "*case* without prejudice." *Id.*; *see also id.* at ¶ 12 (stating the district court "ordered dismissal of the *action* without prejudice" (emphasis added)). This Court held that once the order of dismissal without prejudice was entered, "the action [was] ended, and there [was] no longer an action pending before the court." *Id.* at ¶¶ 13, 15.

[¶25] Here, the district court did not dismiss the *case* or *action* without prejudice; the court dismissed Morales's *claims* against *one party* without prejudice. The court's dismissal without prejudice of the claims against one of multiple parties did not divest the court of jurisdiction over the case. Because the court never entered an appealable judgment as to the claims and parties, the court had jurisdiction and could revise the judgments "at any time" as to "all the claims and all the parties' rights and liabilities." N.D.R.Civ.P. 54(b).

[¶26] Our conclusions the district court misapplied the law when it treated the July 2022 judgment of dismissal as a final judgment, and that the court had jurisdiction to address Morales's request, is supported by our decisions in *James Vault & Precast Co. v. B&B Hot Oil Serv., Inc.*, 2018 ND 63, 908 N.W.2d 108 ("*James Vault I*"); and *James Vault & Precast Co. v. B&B Hot Oil Serv., Inc.*, 2019 ND 143, 927 N.W.2d 452 ("*James Vault II*"). In *James Vault I*, we considered "situations where parties have voluntarily dismissed remaining claims without prejudice to effectuate a final disposition of all the claims in a multi-claim or multi-party lawsuit to circumvent N.D.R.Civ.P. 54(b) and create a final judgment for purposes of appellate jurisdiction." 2018 ND 63, ¶ 11. In these limited situations, we adopted a "bright-line approach to review appeals where remaining claims are dismissed without prejudice." *Id.* at ¶ 14.

[¶27] "Under this [bright-line] approach, if there is a dismissal without prejudice of remaining non-adjudicated claims to create a final disposition of all claims in a lawsuit, *there is not a final judgment of the rights of the parties*." *James Vault I*, 2018 ND 63, ¶ 14 (emphasis added). While parties may stipulate to dismiss remaining unadjudicated claims without prejudice under N.D.R.Civ.P. 41(a), parties may not use that procedure to circumvent N.D.R.Civ.P. 54(b) requirements and "manufacture" finality for appellate jurisdiction purposes. *James Vault I*, at ¶ 16 (citing 8 *Moore's Federal Practic*e, at § 41.34[7][b]). Accordingly, we held the judgment was not final for appellate jurisdiction purposes and dismissed the appeal. *Id.* at ¶ 17.

[¶28] After we dismissed the appeal in *James Vault I*, the appellants stipulated to dismiss with prejudice all their remaining claims against the remaining other party, the district court entered a judgment dismissing with

prejudice all the claims against the other party, and the appellants appealed from the subsequent judgment disposing of all the claims in the lawsuit. *James Vault II*, 2019 ND 143, ¶ 10. The appellee moved to dismiss the appeal, arguing the subsequent judgment was void because this Court had not remanded for further proceedings after dismissing the prior appeal. *Id.* at ¶ 11. The appellee argued under *Albrecht* there was no pending proceeding in the district court for entry of the subsequent judgment and that judgment was void; neither appellants nor the other party attempted to secure relief from the earlier judgment; and the time for appeal from the earlier judgment had expired. *James Vault II*, at ¶ 11.

[¶29] In *James Vault II*, we denied the appellee's motion to dismiss and concluded the subsequent judgment was final for purposes of our appellate jurisdiction. 2019 ND 143, ¶ 13. In so doing, we distinguished the proceedings in *Albrecht*, 1998 ND 132, as involving a dismissal without prejudice of the plaintiff's *entire action* against two defendants; whereas the proceedings in *James Vault I* "did not result in a final judgment for purposes of our appellate jurisdiction." *James Vault II*, at ¶¶ 12-13. We explained that "[o]ur decision in *James Vault* [*I*] recognized the February 2017 judgment was not final and effectively returned the action to the district court for further proceedings before the action could be deemed final for purposes of our appellate jurisdiction." *Id.* at ¶ 13.

[¶30] We further clarify our decision in *James Vault II* to explain that, after the appeal was dismissed in *James Vault I*, the district court retained authority to revise the prior "judgment" in the multi-party, multi-claim action under Rule 54(b) because the "judgment" was not a final judgment. 2019 ND 143, ¶ 9; *see* N.D.R.Civ.P. 54(b) ("[A]ny order or other decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities."); *see also Dinger*, 2000 ND 41, ¶ 11 (an interlocutory order remains subject to revision by the court at any time before the entry of judgment adjudicating all claims between all parties); *Kartes v. Kartes*, 2013 ND 106, ¶ 22, 831 N.W.2d 731

("[I]nterlocutory rulings by a trial court are by definition not final, and remain subject to review and modification."); *Strom-Sell v. Council for Concerned Citizens, Inc.*, 1999 ND 132, ¶ 13, 597 N.W.2d 414 (the court retains jurisdiction until final decree to modify or rescind a prior interlocutory order, and the court may correct a prior interlocutory ruling).

[¶31] Rule 60(b), N.D.R.Civ.P., allows the district court to provide a party relief from a final judgment, order, or proceeding. *See Olson Fam.*, 2023 ND 216, ¶ 6. As in *James Vault II*, the court's dismissal without prejudice of Junewal did not dismiss the entire action; it therefore "did not result in a final judgment for purposes of our appellate jurisdiction." 2019 ND 143, ¶¶ 12-13. Also, as in *James Vault II*, when we dismissed Morales's December 2022 appeal from the judgment dismissing Weatherford with prejudice as "not appealable at this time," our decision recognized the judgment dismissing Junewal was not final and "returned the action to the district court for further proceedings before the action could be deemed final for purposes of our appellate jurisdiction." *Id.* at ¶ 13. Thus, the judgment dismissing Junewal was not final for purposes of a Rule 60(b) motion and the court retained jurisdiction to enter a final judgment "adjudicating all the claims and all the parties' rights and liabilities." N.D.R.Civ.P. 54(b). Under these circumstances, Morales was not required to satisfy the requirements of N.D.R.Civ.P. 60(b) for the court to revise the prior judgment dismissing Junewal without prejudice, and the district court retained authority under N.D.R.Civ.P. 54(b) to revise the prior judgment. We therefore reverse the court's February 2023 order denying Morales's request.

[¶32] The record below establishes Morales released Junewal from this action in exchange for a payment of his insurance policy limit. Thus, the record shows all of Morales's claims against Junewal have been finally resolved. Rather than "manufacturing" a final judgment for purposes of appellate jurisdiction, the record shows the claims against Junewal have actually been finally resolved. *Cf. Swenson v. Mahlum*, 2019 ND 144, ¶ 15, 927 N.W.2d 850. The clerk previously entered judgments dismissing with prejudice Morales's claims against Wilhoit and Weatherford. Thus, all claims against all parties are resolved, and the district court is now in the position to enter a single "final judgment" concluding this matter. Accordingly, we direct the court to enter a

single final judgment "adjudicating all the claims and all the parties' rights and liabilities."

[¶33] Because we retain jurisdiction and remand for the district court to enter a final judgment, we have necessarily concluded we have appellate jurisdiction over at least some of the judgments. As recently explained in *Estate of Kish*, 2024 ND 76, ¶¶ 14-15, noncompliance with Rule 54(b) does not affect this Court's appellate jurisdiction. In *Kish*, we retained jurisdiction and remanded so the court could determine whether a Rule 54(b) certification is appropriate. *Id.* at ¶¶ 12, 16. In the present case, the judgments dismissing Wilhoit and Weatherford "involve[] the merits of an action or some part thereof[.]" N.D.C.C. § 28-27-02(5). Thus, we have jurisdiction over those judgments. However, because Morales had a pending claim against Junewal, and there was no Rule 54(b) certification, we declined to exercise our appellate jurisdiction over the judgments of dismissal with prejudice. *Kish*, at ¶ 15. Because all claims against all parties are now resolved, we exercise and retain our appellate jurisdiction and remand so the court can enter a final judgment.

III

[¶34] We conclude the district court misapplied the law when it treated Morales's request as a Rule 60(b) motion and held it "no longer has jurisdiction." We reverse the court's order on stipulation for dismissal, retain jurisdiction under N.D.R.App.P. 35(a)(3)(B), and remand with instructions that, within twenty days from the filing of this opinion, the court enter a single final judgment adjudicating all the claims and all the parties' rights and liabilities.

[¶35] Lisa Fair McEvers
Jerod E. Tufte
Douglas A. Bahr

Crothers, Justice, specially concurring.

[¶36] I agree with the majority opinion retaining jurisdiction and remanding for entry of judgment. I write separately to try to help bring clarity to and

compliance with N.D.R.Civ.P. 54(b). *See Estate of Kish*, 2024 ND 76, ¶¶ 18-23 (Crothers, J., concurring and dissenting).

[¶37] Most North Dakota judicial decisions discussing appealability, including this case, involve consideration whether a purported judgment is final and therefore appealable. By this Court using words and phrases like "final judgment" or "judgment final for purposes of appellate jurisdiction" we likely are suggesting such a thing exists as a "non-final judgment." In doing so, I think we are making this area of the law more difficult to understand and follow than is necessary.

[¶38] Historically, our decisions refer to a "final judgment" because of the language in N.D.R.Civ.P. 54(b) and 60(b). Both rules use the phrase "final judgment." However, this wording was adopted wholesale from the federal civil rules, but perhaps should not have been. North Dakota and the federal system have very different schemes for appeals. *See generally Regstad v. Steffes*, 433 N.W.2d 202, 205 (N.D. 1988) (Meschke, J., concurring) (discussing differences). The federal system has intermediate appellate courts and permissively allow some interlocutory appeals. *Id.* ("In the federal practice, neither lack of finality nor absence of Rule 54(b) action affects the appealability of some interlocutory orders, such as collateral orders, decrees directing the immediate turnover of property and an accounting, and injunctions."); *see also Abbott v. Perez*, 585 U.S. 579, 594 (2018) (discussing exceptions to the general rule that only final decisions of the federal district courts are reviewable on appeal). Unlike the federal courts, North Dakota does not have a true court of appeals and we do not permissively allow interlocutory appeals. *See* majority opinion, ¶¶ 20-21.

[¶39] For all judgments in North Dakota, the simple question is whether a "non-final judgment" exists. I submit it does not for purposes of appeal, collection or execution, full faith and credit, or otherwise. *See Dixon v. Dixon*, 2021 ND 94, ¶¶ 16-17, 960 N.W.2d 764 (holding an interlocutory "judgment" was not appealable); N.D.R.Civ.P. 54(a) ("'Judgment' as used in these rules includes a decree and any order from which an appeal lies."); *In re Elmer*, 158 S.W.3d 603, 605 (Tex. App. 2005) ("If a portion of the case remains pending in the trial court, the judgment of the trial court is not final and the prevailing

party cannot commence enforcement measures.") (citing *Hood v. Amarillo Nat. Bank*, 815 S.W.2d 545, 547 (Tex. 1991)); *see also Cermesoni v. Maneiro*, 144 So.3d 627, 629 (Fla. Dist. Ct. App. 2014) ("non-final or interlocutory orders of foreign courts, however, are generally not entitled to [ ] recognition or enforcement") (quoting *Cardenas v. Solis*, 570 So.2d 996, 998 (Fla. Dist. Ct. App. 1990)).

[¶40] In *Dixon v. Dixon*, 2021 ND 94, we addressed the nature of the "judgment" entered by a district court and whether that disposition was appealable. There, we held:

> In North Dakota the right to appeal is statutory, and we must dismiss for lack of jurisdiction if the law does not provide a basis for an appeal. *In re Estate of Hollingsworth*, 2012 ND 16, ¶ 7, 809 N.W.2d 328. "Only judgments and decrees constituting a final judgment and specific orders enumerated by statute are appealable." *Investors Title Ins. Co. v. Herzig*, 2010 ND 138, ¶ 23, 785 N.W.2d 863 (citation omitted); *accord* N.D.R.Civ.P. 54(a). Our framework for analyzing finality and our appellate jurisdiction involving unadjudicated claims is well established:
>
> > "First, the order appealed from must meet one of the statutory criteria of appealability set forth in NDCC § 28-27-02. If it does not, our inquiry need go no further and the appeal must be dismissed. If it does, then Rule 54(b), NDRCivP, [if applicable,] must be complied with. If it is not, we are without jurisdiction."
> >
> > *Matter of Estate of Stensland*, 1998 ND 37, ¶ 10, 574 N.W.2d 203 (quoting *Gast Constr. Co., Inc. v. Brighton P'ship*, 422 N.W.2d 389, 390 (N.D. 1988) (citations omitted)).

Dixon, at ¶ 8. In *Dixon* we also observed some of the problems caused by improper or premature entry of what is called a "judgment":

> Without an expressly final order, we also anticipate that continuing ambiguities will lead to needless additional work by the attorneys, additional and unnecessary expenses for clients, and

> additional proceedings in this Court to determine whether an order constitutes an appealable judgment or needs N.D.R.Civ.P. 54 certification.

Id. at ¶ 15.

[¶41] Like in *Dixon*, I again call on judges and the parties to avoid premature entry of so-called "judgments" so that clients can receive more expeditious and less expensive final resolution of their claims, and the judicial system can be relieved of the burden of proceedings that do little more than consume the clerk of courts' and the judges' time, and delay final resolution of a matter.

[¶42] Jon J. Jensen, C.J.
Daniel J. Crothers