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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

PARADISE VALLEY FARMS, a Nevada
partnership; et al.,

Plaintiffs,

MARILYN L. GEERTSON; et al.,

Plaintiffs,

and

PHILLIP W. GEERTSON,

Plaintiff - Appellant,

v.

FEDERAL DEPOSIT INSURANCE
CORPORATION,

Defendant - Appellee.

No. 08-15209

D.C. No. CV-04-00759-LRH

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Larry R. Hicks, District Judge, Presiding

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

Submitted November 2, 2010**
San Francisco, California

Before: KOZINSKI, Chief Judge, RYMER, Circuit Judge, and TRAGER, Senior District Judge.***

Phillip Geertson appeals.¹ His brief states that the appeal is from an order dismissing claims, but that cannot be so; there is no such order. Indeed, as the district court's orders make clear, no judgment has been entered. Absent a final order, there is no appellate jurisdiction under 28 U.S.C. § 1291 – which is the only basis upon which his brief asserts that we may proceed. Even if we ignore this and look to his notice of appeal, it indicates that Geertson appeals the December 27, 2007 denial of reconsideration. However, we lack jurisdiction on the basis of that order, too, unless we suppose that what Geertson actually means to appeal was the underlying order of September 28, 2007. Assuming this is so, and that we have jurisdiction, *see Sierra On-Line, Inc. v. Phx. Software, Inc.*, 739 F.2d 1415, 1420-21 (9th Cir. 1984), his appeal lacks merit and we affirm.

To the extent Geertson argues that the district court erroneously held him in contempt, the argument is frivolous. No such order appears. Beyond this, the

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

*** The Honorable David G. Trager, Senior United States District Judge for the Eastern District of New York, sitting by designation.

¹ Geertson appears to treat Paradise Valley Farms as an appellant as well, though it is not.

court did not abuse its discretion in granting in part the Bank's motion to compel. The UCC has no bearing on the matter in dispute. Nor did the court abuse its discretion in denying Geertson's motion for reconsideration. It did not clearly err in any respect; in particular it did not err in failing to require the Bank to comply with the UCC because the UCC was not relevant to the settlement or the subsequent orders enforcing it.

Finally, Geertson suggests in reply that the FDIC is not the real party in interest. This is also frivolous.²

AFFIRMED.

² We remind counsel for Geertson that briefs on appeal must comply with Fed. R. App. P. 28. The statements made, and arguments presented, should accurately reflect the record. Frivolous appeals and arguments may be sanctioned under Fed. R. App. P. 38.