

IN THE SUPREME COURT OF THE STATE OF NEVADA

EARTH GUARD ENVIRONMENTAL,  
INC., A NEVADA CORPORATION,  
Appellant,

vs.

CLARK COUNTY, A POLITICAL  
SUBDIVISION OF THE STATE OF  
NEVADA AND CLARK COUNTY  
SANITATION DISTRICT, A POLITICAL  
SUBDIVISION OF THE STATE OF  
NEVADA,

Respondents.

No. 44013

**FILED**

AUG 04 2005

JANETTE M BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

EARTH GUARD ENVIRONMENTAL,  
INC., A NEVADA CORPORATION,  
Appellant,

vs.

CLARK COUNTY, A POLITICAL  
SUBDIVISION OF THE STATE OF  
NEVADA AND CLARK COUNTY  
SANITATION DISTRICT, A POLITICAL  
SUBDIVISION OF THE STATE OF  
NEVADA,

Respondents.

No. 44293

ORDER REINSTATING BRIEFING IN DOCKET NO. 44013 AND  
DISMISSING APPEAL IN DOCKET NO. 44293

These consolidated appeals challenge district court orders granting summary judgment to respondent Clark County Sanitation District (CCSD) and awarding attorney fees and costs. When our preliminary review of the docketing statement and the NRAP 3(e) documents revealed a potential jurisdictional defect, we ordered appellant to show cause why these appeals should not be dismissed for lack of jurisdiction. Specifically, we were concerned that the district court had not entered a final written judgment in this matter because it appeared

that claims involving Clark County and intervenor Thrifty Best Services, as well as CCSD's counterclaim, might remain pending, and the district court's orders were not certified as final under NRCP 54(b).<sup>1</sup>

In response, appellant submitted a November 9, 1999 district court order formally dismissing Clark County from the action and a June 24, 2005 district court order formally resolving all of Thrifty Best Services' claims. In addition, it appears that the district court previously resolved CCSD's counterclaim.

The June 24 order appears to resolve the remaining claims in this matter; therefore it constitutes an appealable final judgment. And as a premature notice of appeal may operate prospectively once the district court has entered a final judgment, we have jurisdiction over the appeal in Docket No. 44013 and shall allow it to proceed.<sup>2</sup> Because the district court order appealed from in Docket No. 44293, awarding attorney fees and costs, however, was entered before the district court entered its final order in the matter, it is not independently appealable under NRAP 3A(b)(2) as a special order after final judgment. Consequently, we dismiss the appeal in Docket No. 44293. We note that appellant may nevertheless challenge the interlocutory order awarding attorney fees and costs within the context of its appeal from the final order in Docket No. 44013.<sup>3</sup>

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<sup>1</sup>Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000); KDI Sylvan Pools v. Workman, 107 Nev. 340, 810 P.2d 1217 (1991); Rae v. All American Life & Cas. Co., 95 Nev. 920, 605 P.2d 196 (1979).


<sup>2</sup>See NRAP 4(a)(6).

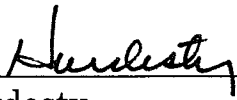
<sup>3</sup>See Consolidated Generator v. Cummins Engine, 114 Nev. 1304, 1312, 971 P.2d 1251, 1256 (1998) (noting that this court may review interlocutory orders on appeal from a final judgment).

Accordingly, we reinstate the preparation of transcripts and the briefing schedule. Court reporter Kit McDonnel shall have thirty days from the date of this order to prepare, file and serve the transcripts requested by appellant in the transcript request forms filed on April 20, 2005 and May 5, 2005.<sup>4</sup> Appellant shall have eighty days from the date of this order within which to file and serve an opening brief and appendix. Thereafter, briefing shall proceed in accordance with NRAP 31(a)(1).

It is so ORDERED.

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Hardesty

cc: Hon. Kathy A. Hardcastle, District Judge  
M. Nelson Segel, Settlement Judge  
Callister & Reynolds  
Pyatt Silvestri & Hanlon  
Kit McDonnel, Court Reporter  
Clark County Clerk

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<sup>4</sup>See NRAP 9(b).