

IN THE SUPREME COURT OF THE STATE OF NEVADA

KAMRAN FARHADI AND SUZIE FARHADI, HUSBAND AND WIFE; AND PARVIS M. HARRARI, A/K/A PARVIZ A. HARIRI, INDIVIDUALLY,
Appellants,

vs.

WALTER E. FOSTER, PERSONAL REPRESENTATIVE OF THE ESTATE OF JACK VALLEGA, DECEASED, D/B/A DELTA FREIGHT COMPANY,
Respondent.

WALTER E. FOSTER, PERSONAL REPRESENTATIVE OF THE ESTATE OF JACK VALLEGA, DECEASED, D/B/A DELTA FREIGHT COMPANY,
Appellant,

vs.

KAMRAN FARHADI AND SUZIE FARHADI, HUSBAND AND WIFE; AND PARVIS M. HARRARI, INDIVIDUALLY, A/K/A PARVIS M. HARIRI,
Respondents.

KAMRAN FARHADI AND SUZIE FARHADI, HUSBAND AND WIFE; AND PARVIS M. HARRARI, A/K/A PARVIS M. HARIRI, INDIVIDUALLY,
Appellants,

vs.

WALTER E. FOSTER, PERSONAL REPRESENTATIVE OF THE ESTATE OF JACK VALLEGA, DECEASED, D/B/A DELTA FREIGHT COMPANY,
Respondent.

No. 42169

FILED

AUG 16 2005

JANE LEE H. HUGHES
CLERK OF THE SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

No. 43058

No. 44636

ORDER DISMISSING APPEAL IN DOCKET NO. 44636
AND DENYING MOTION TO CONSOLIDATE

Docket Nos. 42169 is an appeal by Mr. and Mrs. Farhadi and Parvis Harrari from a September 2, 2003 district court order granting summary judgment to the Vallega Estate and Ironwood Investments, a September 2, 2003 order awarding attorney fees to the Vallega Estate, and a September 5, 2003 order awarding attorney fees to Ironwood Investments. The Farhadis, Harrari and Ironwood reached a settlement, and thus the appeal was dismissed as to Ironwood on September 29, 2004. Docket No. 43058 is an appeal by the Vallega Estate from a March 12, 2004 order granting an offset. Docket Nos. 42169 and 43058 were consolidated for briefing, which has been completed. Docket No. 44636 is an appeal by the Farhadis and Harrari from the same orders listed in the Docket No. 42169 notice of appeal, as well as the March 12, 2004 order.

The Farhadis and Harrari have moved to consolidate Docket No. 44636 with the other consolidated appeals. We conclude that we lack jurisdiction over this appeal, and so we deny the motion to consolidate and dismiss Docket No. 44636.


In Morrell v. Edwards,¹ this court discussed the difference between a judgment and an amended judgment, explaining that “[t]he test for determining whether an appeal is properly taken from an amended judgment rather than the judgment originally entered depends upon whether the amendment disturbed or revised legal rights and obligations which the prior judgment had plainly and properly settled with finality.” Here, the September 2, 2003 judgment was modified by the March 12,

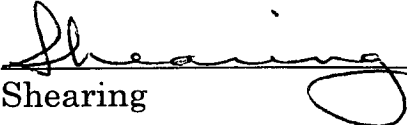
¹98 Nev. 91, 92, 640 P.2d 1322, 1324 (1982).

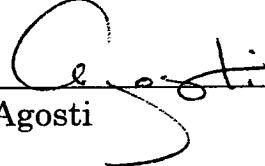
2004 order, as well as the April 14, 2004 order that finally determined the offset as to Ironwood. Thus, the April 14, 2004 order was the final judgment.

Under NRAP 4, a notice of appeal must be filed within thirty days after service of written notice of entry of the orders.² Notice of entry of April 14, 2004 judgment was served by mail that same day, and so the notice of appeal was due no later than May 17, 2004. The notice of appeal in Docket No. 44636 was filed on January 27, 2005, several months late.³ Accordingly, we dismiss the appeal in Docket No. 44636, and we deny the motion to consolidate as moot.

It is so ORDERED.


_____, C.J.
Becker


_____, Sr. J.
Shearing


_____, Sr. J.
Agosti

²See NRAP 4(a)(1); NRAP 26(c).

³We note that under the former version of NRAP 4, the notice of appeals in Docket Nos. 42169 and 43058 would have been premature and thus would not have conferred jurisdiction on this court. See NRAP 4(a)(1) (1989); Rust v. Clark Cty. School District, 103 Nev. 686, 747 P.2d 1380 (1987). But under the December 16, 2004 amendments to the rule, the premature notices of appeal became effective upon entry of the final judgment. See NRAP 4(a)(6) (2004).

cc: Hon. Janet J. Berry, District Judge
Kreitlen & Walker
Robison Belaustegui Sharp & Low
Peter Toft Combs
Washoe District Court Clerk