

IN THE SUPREME COURT OF THE STATE OF NEVADA

AMELIA MEYERS, AS GUARDIAN AD LITEM  
FOR MINOR SARAH HELD,  
Appellant,  
vs.  
REPUBLIC SILVER STATE DISPOSAL, INC.,  
Respondent.

No. 50899

AMELIA MEYERS, AS GUARDIAN AD LITEM  
FOR MINOR SARAH HELD,  
Appellant,  
vs.  
REPUBLIC SILVER STATE DISPOSAL, INC.,  
Respondent.

No. 51659

**FILED**

JAN 09 2009

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER DISMISSING APPEAL (DOCKET NO. 51659)  
AND REINSTATING BRIEFING (DOCKET NO. 50899)

These are consolidated appeals from a district court judgment on a jury verdict (Docket No. 50899) and a post-judgment order awarding attorney fees and costs (Docket No. 51659). Eighth Judicial District Court, Clark County; David B. Barker, Judge.

When our preliminary review of the docketing statement and the documents submitted to this court pursuant to NRAP 3(e) in Docket No. 51659 revealed a potential jurisdictional defect with respect to that appeal, which is taken from an April 7, 2008, district court order awarding attorney fees and costs, we ordered appellant to show cause why that appeal should not be dismissed for lack of jurisdiction. Specifically, the notice of appeal appeared to be untimely under NRAP 4(a) because it was filed more than 33 days after service of written notice of the April 7 order's

entry. See NRAP 4(a)(1) (providing that an appeal must be filed within 30 days from service of the appealed order's notice of entry); NRAP 26(c) (adding three days to the appeal period if service was by mail). Appellant has timely responded to the show cause order, and as permitted, respondent has filed a reply.

According to the certificate of service, the April 7 order's written notice of entry was served by mail on April 10, 2008. Appellant's May 14, 2008, notice of appeal was filed more than 33 days from that date. Appellant argues, however, that she was not served with the notice of entry until April 15, 2007, because that is the day on which she received the notice.<sup>1</sup>

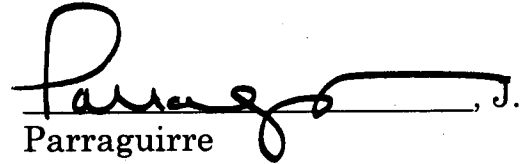
As respondent points out, NRAP 4(a)(1) provides that the appeal period starts from the date that the notice of entry is served, not when it is received. "Service by mail is complete upon mailing." Zugel v. Miller, 99 Nev. 100, 101, 659 P.2d 296, 297 (1983); see NRAP 25(1)(c); NRCP 5(b)(2)(B). Accordingly, since the April 7 order's written notice of entry was served on April 10, 2008, appellant's appeal was untimely. As we lack jurisdiction over an untimely appeal, Winston Products Co. v. DeBoer, 122 Nev. 517, 519, 134 P.3d 726, 728 (2006), we dismiss the appeal in Docket No. 51659. We reinstate the briefing schedule in Docket No. 50899. Appellant shall have 15 days from the date of this order within

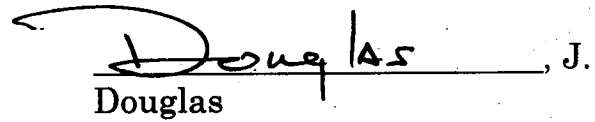
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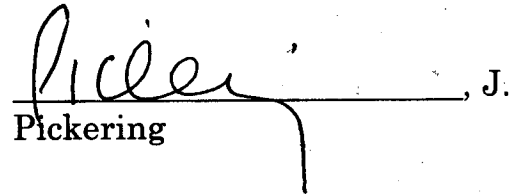
<sup>1</sup>Although appellant's response references three exhibits, no exhibits were attached to her response.

which to file and serve her opening brief and appendix in that appeal.  
Thereafter, briefing shall proceed in accordance with NRAP 31(a).

It is so ORDERED.

  
Parraguirre

  
Douglas

  
Pickering

cc: Hon. David B. Barker, District Judge  
Neil Galatz, Settlement Judge  
William C. Turner, Settlement Judge  
Law Offices of Leslie Mark Stovall  
McNeil, Tropp, Braun, & Kennedy  
Eighth District Court Clerk