

IN THE SUPREME COURT OF THE STATE OF NEVADA

RAPID MOUNTING DISPLAY, AN
ILLINOIS CORPORATION,
Appellant,
vs.
EXPOSURE GRAPHICS,
Respondent.

No. 52623

EXPOSURE GRAPHICS, INC.,
Appellant,
vs.
RAPID MOUNTING DISPLAYS, AN
ILLINOIS CORPORATION,
Respondent.

No. 53362

EXPOSURE GRAPHICS,
Appellant/Cross-Respondent,
vs.
RAPID MOUNTING DISPLAY, AN
ILLINOIS CORPORATION,
Respondent/Cross-Appellant.

No. 54069

FILED

FEB 05 2010

TRACEE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER DISMISSING APPEALS (DOCKET NOS. 52623 AND 53362)
AND REINSTATING BRIEFING (DOCKET NO. 54069)

These consolidated appeals and cross-appeal challenge various district court orders and judgments, entered on remand, in a contract and tort action.

Docket No. 52623 is an appeal from the district court's September 19, 2008, "Findings, Decision and Order." Docket No. 53362 is an appeal from the court's February 4, 2009, order denying attorney fees related to a prior appeal. Finally, Docket No. 54069 is an appeal from a May 5, 2009, order awarding post-judgment attorney fees; also assigned to that docket number are the parties' several amended notices of appeal and cross-appeal.

When our review of the documents submitted to this court with the amended notices of appeal and the parties' docketing statements revealed potential jurisdictional defects with these appeals, we directed the parties to show cause why the July 31, 2009, fourth-amended judgment should not be deemed the final, appealable judgment on remand and the appeals from all prior orders dismissed.¹ We also asked cross-appellant Rapid Mounting Display to address why its appeal from an August 4, 2009, order denying a motion to alter or amend should not be dismissed for lack of jurisdiction, since such orders are not independently appealable. NRAP 3A(b)(2); Uniroyal Goodrich Tire v. Mercer, 111 Nev. 318, 320 n.1, 890 P.2d 785, 787 n.1 (1995), superseded on other grounds by statute as stated in RTTC Communications v. Saratoga Flier, 121 Nev. 34, 110 P.3d 24 (2005).

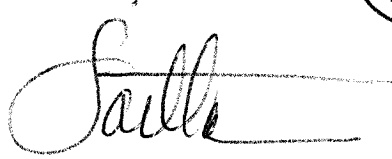
Both parties responded, agreeing that the July 31 fourth-amended judgment constitutes the final judgment below, over which this court has jurisdiction. NRAP 3A(b)(1). Accordingly, the appeal and cross-appeal from that judgment, taken in Docket No. 54069, may proceed. Although the order denying the motion to alter or amend is not independently appealable, issues raised therein may be considered in the context of the appeal and cross-appeal from the final judgment in Docket No. 54069, so long as the criteria noted in Arnold v. Kip is satisfied. 123 Nev. 410, 417, 168 P.3d 1050, 1054, (2007) (“[I]f the reconsideration order

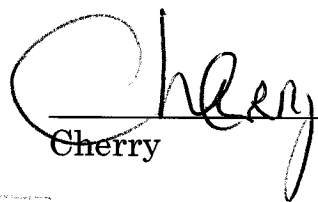
¹We noted that, should the July 31 fourth-amended judgment be deemed the final, appealable judgment, the prior orders on remand can be considered in the context of the parties' appeals. Consolidated Generator v. Cummins Engine, 114 Nev. 1304, 1312, 971 P.2d 1251, 1256 (1998).

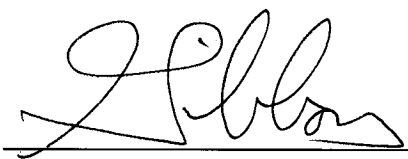
and motion are properly part of the record on appeal from the final judgment, and if the district court elected to entertain the motion on its merits, then we may consider the arguments asserted in the reconsideration motion in deciding an appeal from the final judgment.”). The appeals from the interlocutory orders, assigned to Docket Nos. 52623 and 53362, are hereby dismissed for lack of jurisdiction.

With respect to the appeal and cross-appeal in Docket No. 54069, appellant Exposure Graphics shall have 45 days from the date of this order to file and serve its opening brief and appendix.² Rapid Mounting Display shall then have 30 days from the date that the opening brief is served to file and serve a combined answering brief on appeal and opening brief on cross-appeal. Exposure Graphics shall have 30 days from the date that Rapid Mounting Display’s combined brief is served to file and serve any reply brief on appeal combined with an answering brief on cross-appeal. Thereafter, Rapid Mounting Display shall have 30 days to file any reply brief on cross-appeal. See NRAP 31(a)(1); NRAP 28(c) and (h).

It is so ORDERED.


_____, J.
Saitta


_____, J.
Cherry


_____, J.
Gibbons

²In preparing and assembling the appendix, counsel shall strictly comply with the provisions of NRAP 30.

cc: Hon. Valorie Vega, District Judge
Lewis & Roca, LLP/Las Vegas
R. Clay Hendrix, P.C.
Sonnenschein Nath & Rosenthal, LLP
Eighth District Court Clerk