

IN THE SUPREME COURT OF THE STATE OF NEVADA

RESTROOM FACILITIES, LTD.,  
Appellant,  
vs.  
CHARLES E. KAUFMAN, III,  
Respondent.

No. 54583

**FILED**

**DEC 28 2009**

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

ORDER DISMISSING APPEAL

This is an appeal from a district court judgment entered after remand. Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

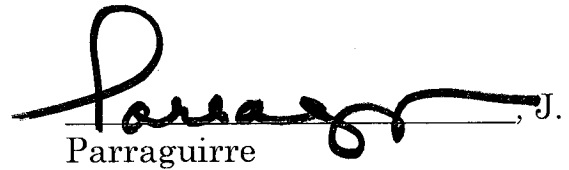
Respondent has filed a motion to dismiss this appeal, asserting that the challenged judgment is not final and thus is not appealable. In that regard, respondent points out that the district court specifically stated that the decision was "not intended as a final judgment," since issues in a consolidated matter remained pending.

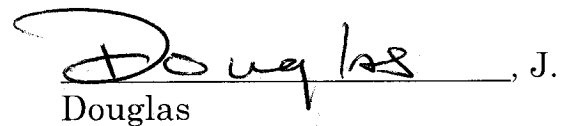
Appellant opposes the motion, arguing that because the matters were consolidated sua sponte by the district court and not at the request of either party, the rule that a district court order generally must dispose of all issues in consolidated actions to be considered final and appealable does not necessarily apply. Mallin v. Farmers Insurance Exchange, 106 Nev. 606, 797 P.2d 978 (1990). Appellant states that the consolidated district court matters were separately appealed previously, and although this court consolidated the matters for resolution, they were discussed separately in this court's dispositional order. Appellant acknowledges that the challenged district court order was not certified as final under NRCF 54(b), but nevertheless asserts that the issue remaining

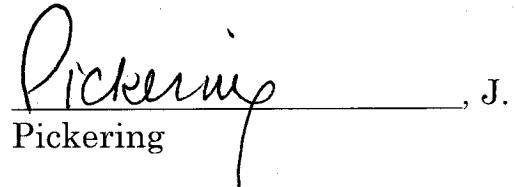
to be resolved in the district court is not dependent upon or related to the issue decided in the challenged order and that this appeal should therefore be allowed to proceed.

Having considered the motion, opposition, and the reply thereto, we conclude that we lack jurisdiction because no final, appealable order has been entered. Mallin, 106 Nev. 606, 797 P.2d 978 (recognizing that consolidated district court actions are treated as one case for purposes of determining whether a final, appealable judgment has been entered). Accordingly, we grant the motion and

ORDER this appeal DISMISSED.

 J.  
Parraguirre

 J.  
Douglas

 J.  
Pickering

cc: Hon. Brent T. Adams, District Judge  
Jonathan L. Andrews, Settlement Judge  
Jack I. McAuliffe, Chtd.  
Molof & Vohl  
Washoe District Court Clerk