

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE FINANCIAL AMERICAN GROUP,
LLC, A DELAWARE LIMITED
LIABILITY COMPANY,
Appellant,

vs.

CH MONTROSE, LLC, A NEVADA
LIMITED LIABILITY COMPANY; DA
1147, LLC, A NEVADA LIMITED
LIABILITY COMPANY; DA 1148, LLC,
A NEVADA LIMITED LIABILITY
COMPANY; ONE HUNDRED YEAR,
LLC, A NEVADA LIMITED LIABILITY
COMPANY; WILLIAM GAYLER, AN
INDIVIDUAL; FIRST AMERICAN
TITLE INSURANCE COMPANY, A
CALIFORNIA CORPORATION; AND
TAMARA TURNER, AN INDIVIDUAL,
Respondents.

No. 56224

FILED

OCT 13 2010

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

THE FINANCIAL AMERICAN GROUP,
LLC, A DELAWARE LIMITED
LIABILITY COMPANY,
Appellant,

vs.

CH MONTROSE, LLC, A NEVADA
LIMITED LIABILITY COMPANY; DA
1147, LLC, A NEVADA LIMITED
LIABILITY COMPANY; DA 1148, LLC,
A NEVADA LIMITED LIABILITY
COMPANY; ONE HUNDRED YEAR,
LLC, A NEVADA LIMITED LIABILITY
COMPANY; WILLIAM GAYLER, AN
INDIVIDUAL; FIRST AMERICAN
TITLE COMPANY, A CALIFORNIA
CORPORATION; AND TAMARA
TURNER, AN INDIVIDUAL,
Respondents.

No. 56385

THE FINANCIAL AMERICAN GROUP,
LLC, A DELAWARE LIMITED
LIABILITY COMPANY,

Appellant,

vs.

CH MONTROSE, LLC, A NEVADA
LIMITED LIABILITY COMPANY; DA
1147, LLC, A NEVADA LIMITED
LIABILITY COMPANY; DA 1148, LLC,
A NEVADA LIMITED LIABILITY
COMPANY; ONE HUNDRED YEAR,
LLC, A NEVADA LIMITED LIABILITY
COMPANY; WILLIAM GAYLER, AN
INDIVIDUAL; FIRST AMERICAN
TITLE INSURANCE COMPANY, A
CALIFORNIA CORPORATION; AND
TAMARA TURNER, AN INDIVIDUAL,
Respondents.

No. 56802 ✓

ORDER ADMINISTRATIVELY CLOSING DOCKET NO. 56802,
DISMISSING APPEALING APPEAL IN DOCKET NO. 56385,
AND DENYING AS MOOT MOTION TO CONSOLIDATE

These are appeals from various district court orders in a real property contract action. Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

On May 14, 2010, the district court entered its original final judgment in the matter below. Shortly after the May 14 order was entered, respondents filed a motion to amend the judgment; it was unclear at that time whether the district court would treat that motion as an NRCP 59(e) tolling motion or as an NRCP 60(a) nontolling motion. Accordingly, before the motion was resolved, appellant filed a notice of appeal from the May 14 order; that appeal was assigned to Docket No. 56224. Then, on June 7, 2010, the district court entered an attorney fees award, from which appellant also appealed; that appeal was assigned to Docket No. 56385. Finally, on August 18, 2010, the district court partially

granted the motion to amend, substantively modifying the final judgment. As a result, we conclude that the motion to amend was a tolling motion under NRCP 59(e), and the August 18 order became the final order. See Morrell v. Edwards, 98 Nev. 91, 92, 640 P.2d 1322, 1324 (1982) (describing when an appeal is properly taken from an amended judgment). Appellant properly filed an amended notice of appeal, designating the August 18 order. NRAP 4(a)(5). The amended notice of appeal, however, was assigned to a new docket, No. 56802. Appellant now moves to consolidate these three appeals.

Because the motion to amend tolled the time to appeal from the May 14 judgment and the August 18 order constitutes the final order in the matter below, we direct the clerk of this court to transfer, to Docket No. 56224, the amended notice of appeal and NRAP 3(g) documents filed in Docket No. 56802 and to administratively close Docket No. 56802. No filing fee is due in Docket No. 56802. NRAP 4(a)(7). Further, as the June 7 attorney fees award is interlocutory, it is not an appealable order, NRAP 3A(b); instead, that order may be challenged in the context of appellant's appeal from the final judgment in Docket No. 56224. Consolidated Generator v. Cummins Engine, 114 Nev. 1304, 1312, 971 P.2d 1251, 1256 (1998). Accordingly, we dismiss the appeal in Docket No. 56385. Finally, we deny as moot the motion to consolidate these appeals.

It is so ORDERED.

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

cc: Hon. Susan Johnson, District Judge
Stephen E. Haberfeld, Settlement Judge
Fennemore Craig, P.C./Las Vegas
Kemp, Jones & Coulthard, LLP
Pengilly Robbins Slater & Bell
Eighth District Court Clerk