

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICK SHELTON AND TRACY RUCK,  
Appellants,  
vs.  
GAVIN ERNSTONE, AN INDIVIDUAL,  
Respondent.

No. 58389

FILED

JAN 15 2013

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *A. Anderson*  
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court judgment in a contract and torts action. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

Appellants have filed a motion to dismiss this appeal and remand this matter to the district court, demonstrating that on May 17, 2011, the district court orally certified its intention to reconsider and vacate the judgment entered against them. Appellants' motion is granted.<sup>1</sup> Accordingly, we

ORDER this appeal DISMISSED.

*Douglas*, J.  
Douglas

*Gibbons*, J.  
Gibbons

*Saitta*, J.  
Saitta

<sup>1</sup>Additionally, this appeal is dismissed because we lack jurisdiction; therefore, no remand is necessary. It appears that the district court has not yet resolved respondent's claim for misrepresentation, and thus, no final judgment has been entered. NRAP 3A(b)(1); Lee v. GNLV Corp., 116 Nev. 424, 426, 996 P.2d 416, 417 (2000). Further, even if a final judgment had been entered, appellants' motion for reconsideration tolled the appeal period, see AA Primo Builders v. Washington, 126 Nev. \_\_\_, 245 P.3d 1190, 1195 (2010) (recognizing that timely filed motions for reconsideration may toll the appeal period), and the district court's failure to formally resolve that motion by written order means that appellants' notice of appeal was premature. Once the district court has entered a final, written order resolving all of the claims and issues below, any aggrieved party may appeal.

cc: Hon. Valerie Adair, District Judge  
Candace Carlyon, Settlement Judge  
Shumway Van & Hansen  
McCullough, Perez & Associates, Ltd.  
Eighth District Court Clerk