

IN THE SUPREME COURT OF THE STATE OF NEVADA

THOMAS PORTALE; ADAM GROSS;
DILLON SCHICKLI; AND WAYNE
GORDON,

Appellants/Cross-Respondents,
vs.

EXX, INC., A NEVADA CORPORATION;
AND DAVID A. SEGAL,

Respondents/Cross-Appellants
and

JERRY FISHMAN; AND NORMAN H.
PERLMUTTER,

Respondents.

WAYNE GORDON; THOMAS
PORTALE; ADAM GROSS; AND
DILLON SCHICKLI,

Appellants,
vs.

EXX, INC., A NEVADA CORPORATION,
Respondent.

No. 66534

FILED

JUL 31 2015

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

No. 67402

ORDER DISMISSING APPEALS

Docket No, 66534 is an appeal from a February 10, 2014, order establishing the value of certain stock and a subsequent order entered July 16, 2014, awarding attorney fees and costs. Docket No. 67402 is an appeal from an order denying prejudgment interest on the fees and costs. Respondents/cross-appellants and respondents have filed a motion to dismiss the appeals in Docket No. 65534 on the ground that (1) the order


entered February 10, 2014, setting the value of the stock was a final appealable judgment and the notice of appeal was untimely. Respondents/cross-appellants and respondents also move to dismiss the appeal of the award of fees and costs on the ground that the motion was untimely filed in the district court in violation of NRCP 54(d)(2)(B) and because appellants have accepted payment. The motion is opposed.

We conclude that the district court's order establishing the value of the stock was not a final appealable order because it did not set forth a final judgment amount. *Lee v. GNLV Corp.*, 116 Nev. 424, 996 P.2d 416 (2000). Moreover, it appears that the district court has not yet entered a final written order including its final calculation of the judgment. The notice of appeal is therefore premature. *See* NRAP 4(a)(1); *Rust v. Clark Cnty. Sch. Dist.*, 103 Nev. 686, 688, 747 P.2d 1380, 1381 (1987). Accordingly the appeal from the February 10, 2014, order is dismissed without prejudice to appellants/cross-respondents' right to appeal from a final written judgment. *See* NRAP 3A.


Respondents/cross-appellants and respondents also move to dismiss the appeal from the order awarding attorney fees and costs on the ground that it was untimely filed in the district court in violation of NRCP 54. This argument goes to the merits of the appeal rather than to the jurisdiction of this court. Nevertheless, while ordinarily, an order awarding attorney fees and costs is appealable as a special order after final judgment, in this case because there has been no final order, the appeal of the attorney fee award is also premature. *See* NRAP 3A(b)(8) (allowing appeals from special orders after final judgment); *Lee v. GNLV Corp.*, 116 Nev. 424, 996 P.2d 416 (2000) (explaining that attorney fee and

cost awards rendered after a final judgment are appealable post-judgment orders). Accordingly, we

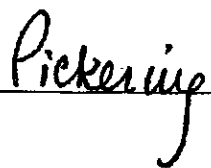
ORDER these appeals DISMISSED.¹



Saitta J.



Gibbons J.



Pickering J.

cc: Hon. Susan Scann, District Judge
Michael H. Singer, Settlement Judge
Sklar Williams LLP
Greenberg Traurig, LLP/Las Vegas
Eighth District Court Clerk

¹The parties stipulated motion to consolidate these appeals is denied as moot.