

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRITZNER MICHEL, INDIVIDUALLY;  
MARIE MICHEL, INDIVIDUALLY AND  
AS SPECIAL ADMINSTRATRIX OF  
THE ESTATE OF REGINALD FRISNER  
MICHEL; AND JERI GRANGER, AS  
CO-SPECIAL ADMINISTRATRIX OF  
THE ESTATE OF REGINALD FRISNER  
MICHEL,

Appellants,

vs.

DANUTA LASKOWSKI; AND  
GEORGETTE MATEALONA,

Respondents.

No. 72090

**FILED**

MAY 05 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER DISMISSING APPEAL*

This is an appeal from a district court judgment entered after jury verdict in action for wrongful death. Eighth Judicial District Court, Clark County; J. Charles Thompson, Judge.

Our preliminary review of the docketing statement and the documents submitted to this court pursuant to NRAP 3(g) revealed a potential jurisdictional defect. Specifically, the notice of appeal appeared to be untimely filed under NRAP 4(a) because it appeared that it was filed after the timely filing of a tolling motion under NRAP 4(a)(4) and before the tolling motion was formally resolved. Accordingly, we directed appellants to show cause why this appeal should not be dismissed for lack of jurisdiction.


Appellants have filed a response to this court's order to show cause wherein they indicate that this court has jurisdiction over this appeal because the tolling motion was resolved when the district court entered an order "refusing to hear" the motion. Specifically, the district

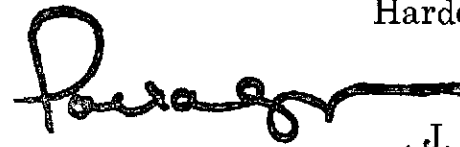
court's order stayed the resolution of the tolling motion, along with other motions, pending the instant appeal. The district court appears to be under the impression that it is divested of jurisdiction to rule on the motion due to the notice of appeal filed in the instant matter.

"The court may dismiss as premature a notice of appeal filed . . . before entry of the written disposition of the last remaining timely tolling motion listed in Rule 4(a)(4).<sup>1</sup>" NRAP 4(a)(6). "A premature notice of appeal does not divest the district court of jurisdiction." *Id.*

The district court has not disposed of appellants' timely filed tolling motion. Instead, the district court stayed its resolution of the motion pending this appeal, and the motion remains unresolved. Because this appeal is premature, we lack jurisdiction and we

ORDER this appeal DISMISSED.<sup>2</sup>

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Stiglich

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<sup>1</sup>NRAP 4(a)(4)(D) lists a motion for new trial under NRAP 59 as one that tolls the time to file a notice of appeal. This was the type of motion that was timely filed by appellants in the district court.

<sup>2</sup>Court reporter Loree Murray's request for an extension of time to prepare and file the requested transcripts is denied as moot.

cc: Chief Judge, The Eighth Judicial District Court  
Hon. J. Charles Thompson, Senior Judge  
Persi J. Mishel, Settlement Judge  
Paternoster Law Group  
Law Offices of Kenneth E. Goates  
The Medrala Law Firm, Prof. LLC  
Loree Murray, Court Reporter  
Eighth District Court Clerk