

IN THE SUPREME COURT OF THE STATE OF NEVADA

VRES, LLC, A NEVADA LIMITED
LIABILITY COMPANY; THOMAS
CHRISTENSEN, AN INDIVIDUAL;
AND ERIC CHRISTENSEN, AN
INDIVIDUAL,

Appellants,

vs.

CLASSIC LANDSCAPES, LLC, A
NEVADA LIMITED LIABILITY
COMPANY,

Respondent.

VRES, LLC, A NEVADA LIMITED
LIABILITY COMPANY; THOMAS
CHRISTENSEN, AN INDIVIDUAL;
AND ERIC CHRISTENSEN, AN
INDIVIDUAL,

Appellants,

vs.

CLASSIC LANDSCAPES, LLC, A
NEVADA LIMITED LIABILITY
COMPANY,

Respondent.

VRES, LLC, A NEVADA LIMITED
LIABILITY COMPANY; AND THOMAS
CHRISTENSEN, AN INDIVIDUAL,

Appellants,

vs.

CLASSIC LANDSCAPES, LLC, A
NEVADA LIMITED LIABILITY
COMPANY,

Respondent.

No. 84150

FILED

MAY 09 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

✓ No. 84514

No. 85343

*ORDER DISMISSING APPEALS, REINSTATING BRIEFING, AND
DENYING STAY*

These are three related appeals from a district court order granting a motion for attorney fees and costs (Docket No. 84150); district court order denying a motion for sanctions pursuant to NRCP 11 (Docket No. 84514); and the amended findings of fact, conclusions of law and judgment issued on August 31, 2022, as well as all prior orders made appealable by that judgment (Docket No. 85343).

This court issued an order to show cause on February 7, 2023, instructing appellants to respond to this court as to why Docket Nos. 84150 and 84514 should not be dismissed for lack of jurisdiction. Appellants filed a response and respondents have filed a reply.

Both appellants and respondents agree to dismiss Docket Nos. 84150 and 84514, as the orders challenged in those appeals can be considered in the context of the appeal from the final judgment in Docket No. 85343. However, both parties make additional requests in their responses.

Appellants have moved for reimbursement, by respondents, for the filing fees for the two dismissed appeals. Respondents argue that this request is without support by legal or statutory precedent. We agree and deny the request for reimbursement. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (declining to consider positions not cogently argued and lacking legal support).

Respondents have moved for this court to reconsider appellant Thomas Christensen's appeal for lack of jurisdiction. They assert that a jurisdictional issue exists insofar as Christensen stipulated to dismiss his claims prior to the entry of final judgment and is therefore not an aggrieved

party. We agree in part. See NRAP 3A(a) (only an aggrieved party can appeal from an appealable judgment or order). Appellants' notice of appeal states that Christensen appeals from "all other orders made final and appealable by entry of the final Judgment, including, but not limited to" the June 21, 2019, order denying his "anti-SLAPP motion to dismiss" and the August 31, 2021, order denying Christensen's motion for attorney fees, along with numerous other motions.

This court has already addressed the jurisdiction of Christensen's appeal from the order denying the anti-SLAPP motion in its November 23, 2021, Order Partially Dismissing Appeal, in Docket No. 82871, wherein the court stated that because Christensen stipulated to dismiss his claims prior to the dismissal of the motion he could not now claim to be aggrieved by the dismissal. Accordingly, this court lacks jurisdiction to consider Christensen's appeal from that order.

However, insofar as Christensen challenges the August 31, 2021, order denying his motion for attorney fees, or other orders made appealable by the entry of final judgment, the parties have the right to raise issues during the merits briefing of this appeal regarding whether jurisdiction has been definitively established, and to what extent that jurisdiction reaches in relation to the issues raised on appeal. See *Landreth v. Malik*, 127 Nev. 175, 179, 251 P.3d 163, 166 (2011) ("[W]hether a court lacks subject matter jurisdiction can be raised by the parties at any time, or sua sponte by a court of review" (internal quotations omitted)).

Accordingly, the appeals in Docket Nos. 84150 and 84514 are dismissed and briefing in Docket No. 85343 is reinstated as follows: appellants shall have 90 days from the date of this order to file and serve

the opening brief and appendix. *See* NRAP 28; NRAP 30; NRAP 31(a)(1). Thereafter, briefing shall proceed in accordance with NRAP 31(a)(1).

Finally, in their response, appellants have moved for a stay of execution of the judgment below. Respondents opposed the motion to stay, and appellants filed a reply. In their initial request appellants only appear to argue that a stay is warranted due to the district court's "obvious error". Respondents assert that this appears to be a motion to stay the district court's order granting the motion for attorney fees and costs challenged by the appeal in Docket No. 84150. Respondents argue that the motion does not comply with NRAP 8(a). Appellants assert in their reply that the motion for a stay is a renewal of the Motion to Stay filed on December 30, 2021, in Docket No. 82871, and argue that because the court determined in that appeal that the judgment was not final, that this "requires" a stay of the attorney fee award.

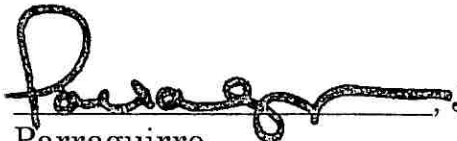
Having considered the motions we are not persuaded that a stay is warranted at this time. In determining whether to grant a stay pending appeal, this court considers the following factors: (1) whether the object of an appeal will be defeated if the stay is not granted, (2) whether appellant will suffer irreparable or serious injury if the stay is denied, (3) whether respondent will suffer irreparable or serious injury if the stay is granted and (4) whether appellant is likely to prevail on the merits in an appeal. NRAP 8(c); *see also Hansen v. Eighth Judicial Dist. Court*, 116 Nev. 650, 657, 6 P.3d 982, 986 (2000). Appellants have not addressed these factors or demonstrated that they militate in favor of a stay. *See Edwards*,

122 Nev. at 330 n.38, 130 P.3d at 1288 n.38. Accordingly, we deny the request for a stay.¹

It is so ORDERED.


_____, J.
Herndon


_____, J.
Lee


_____, J.
Parraguirre

cc: Hon. Bitu Yeager, District Judge
Dana Jonathon Nitz, Settlement Judge
Law Offices of Erven T. Nelson
Christensen Law Offices, LLC
Marquis Aurbach Chtd.
Eighth District Court Clerk

¹Given our disposition, we do not need to address the parties' arguments regarding a supersedeas bond pursuant to NRAP 8(a)(2)(E) and NRCPC 62(d).