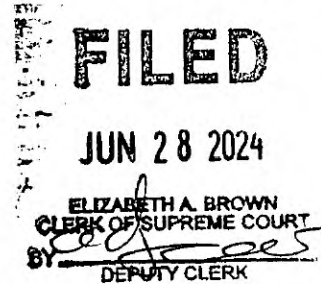


IN THE SUPREME COURT OF THE STATE OF NEVADA

TERESA AUKEMAN,
Appellant,
vs.
DAVID LEWIS, D.C.,
Respondent.

No. 88166



ORDER DISMISSING APPEAL

This is an appeal from a district court order granting a motion to dismiss. Fifth Judicial District Court, Nye County; Kimberly A. Wanker, Judge.

When initial review of the docketing statement and documents before this court revealed a potential jurisdictional defect, this court ordered appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. In particular, it appeared that the district court had not yet entered a final judgment appealable under NRAP 3A(b)(1) because appellant's claims against Spring Mountain Medical Group (SMMG) remained pending in the district court. *See Lee v. GNLV Corp.*, 116 Nev. 424, 426, 996 P.2d 416, 417 (2000) (defining a final judgment). Even assuming that a final judgment had been entered, it appeared that the notice of appeal was prematurely filed in the district court after the filing of a timely tolling motion seeking reconsideration and before that motion was resolved in a written order entered by the district court. *See NRAP 4(a)(4), (6); AA Primo Builders LLC v. Washington*, 126 Nev. 578, 585, 245 P.3d 1190, 1195 (2010).

In response, appellant asserts that the claims against SMMG have been finally resolved because a default was entered against SMMG on

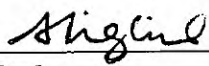
September 6, 2023. Appellant represents that the motion for reconsideration, which also sought to alter or amend under NRCP 59(e) and for relief under NRCP 60(b), was orally resolved on April 16, 2024, and has filed an amended notice of appeal from a May 6, 2024, district court order denying the motion.

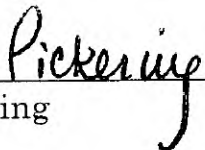
While appellant demonstrates that the motion for reconsideration has now been resolved, appellant does not demonstrate that the district court has entered a final judgment appealable under NRAP 3A(b)(1). *See Moran v. Bonneville Square Assocs.*, 117 Nev. 525, 527, 25 P.3d 898, 899 (2001) (“[T]he burden rests squarely upon the shoulders of a party seeking to invoke our jurisdiction to establish, to our satisfaction, that this court does in fact have jurisdiction.”). A default is not the same as a default judgment and does not finally resolve any claims. *See Est. of Lomastro ex rel. Lomastro v. Am. Fam. Ins. Grp.*, 124 Nev. 1060, 1068, 195 P.3d 339, 345 (2008) (recognizing the distinction between a default and a default judgment). Appellant admits that the issue of damages against SMMG remains pending in the district court. And it does not appear that any other statute or court rule authorizes an appeal from the order of dismissal. *See Brown v. MHC Stagecoach, LLC*, 129 Nev. 343, 345, 301 P.3d 850, 851 (2013) (this court “may only consider appeals authorized by statute or court rule).


Similarly, no statute or court rule authorizes an appeal from the order challenged in the amended notice of appeal, denying the motion for reconsideration, to alter or amend, or for relief from judgment. Orders deciding motions for reconsideration or NRCP 59(e) relief are not independently appealable. *See A Cab, LLC v. Murray*, 137 Nev. 805, 821, 501 P.3d 961, 976 (2021); *Alvis v. State*, 99 Nev. 184, 186, 660 P.2d 980, 981

(1983), *disapproved of by AA Primo Builders, LLC v. Washington*, 126 Nev. 578, 245 P.3d 1190 (2010) (an order denying a motion for rehearing is not appealable as a special order after final judgment). A district court order denying a motion for relief under NRCP 60(b) is generally appealable as a special order after final judgment. *See Holiday Inn v. Barnett*, 103 Nev. 60, 63, 732 P.2d 1376, 1379 (1987) (allowing an appeal from an order denying a motion to vacate an order pursuant to NRCP 60(b)(3)). But in the absence of a final judgment, there can be no special order after final judgment. As discussed above, it does not appear that a final judgment has been entered in the district court. Therefore, the May 6, 2024, order challenged in the amended notice of appeal does not appear appealable at this time. Accordingly, this court lacks jurisdiction, and we

ORDER this appeal DISMISSED.¹


_____, J.
Stiglich


_____, J.
Pickering


_____, J.
Parraguirre

cc: Hon. Kimberly A. Wanker, District Judge
Patrick N. Chapin, Settlement Judge
GGRM Law Firm
Messner Reeves LLP
Nye County Clerk

¹If aggrieved, appellant may file a new notice of appeal once the district court enters a final judgment.