

IN THE SUPREME COURT OF THE STATE OF NEVADA

PROIMTU MMI LLC, A NEVADA
LIMITED LIABILITY COMPANY,
Appellant,

vs.

TRP INTERNATIONAL, INC., A
DELAWARE CORPORATION,
Respondent.

No. 70056

FILED

SEP 12 2016

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

ORDER

We previously entered an order directing appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. Our order questioned whether the notice of appeal was prematurely filed after the filing of a tolling motion to amend judgment and before that tolling motion was resolved in a written order. *See* NRAP 4(a)(6). In response, appellant informed this court that there was a question of whether the motion was timely filed in the district court and asked that this court refrain from acting on the order to show cause until the district court determined whether the motion was timely filed. We construed appellant's response as a motion for an extension of time to file a response to the order to show cause and granted the motion. Appellant has now filed its response. Attached thereto is a copy of a district court order finding that the motion to amend is deemed timely filed on March 11, 2016.

Appellant's timely motion to amend tolled the time to file the notice of appeal. *See* NRAP 4(a)(4). Because it appears that the district court has not yet entered a written order resolving that motion, it appears that the notice of appeal was prematurely filed, and this court lacks jurisdiction over this appeal. *See* NRAP 4(a)(6). Accordingly, appellant

shall have 30 days from the date of this order to show cause why this appeal should not be dismissed for lack of jurisdiction. Respondent may file any reply within 11 days of service of appellant's response. We caution appellant that failure to demonstrate that this court has jurisdiction may result in the dismissal of this appeal. Further requests for extensions of time will not be viewed favorably.

We note that the district court's order certifies the court's intent to grant the motion to amend under *Foster v. Dingwall*, 126 Nev. 49, 228 P.3d 453 (2010). As noted in our previous order, the district court is not divested of jurisdiction where a notice of appeal is filed prematurely. *Id.* Thus, no remand from this court is necessary for the district court to rule on the motion to amend.

It is so ORDERED.

 C.J.

cc: Chief Judge, The Fifth Judicial District Court
Hon. Steven Elliott, Senior Judge
Fennemore Craig, P.C./Las Vegas
Pintar Albiston LLP
Nye County Clerk