

IN THE SUPREME COURT OF THE STATE OF NEVADA

GEORGE STUART YOUNT,
INDIVIDUALLY, AND IN HIS
CAPACITY AS OWNER OF GEORGE
YOUNT IRA,

Appellant,

vs.

CRISWELL RADOVAN, LLC; CR CAL
NEVA, LLC; ROBERT RADOVAN;
WILLIAM CRISWELL; CAL NEVA
LODGE, LLC; POWELL COLEMAN
AND ARNOLD LLP; DAVID
MARRINER; AND MARRINER REAL
ESTATE, LLC,

Respondents.

No. 74275

FILED

AUG 24 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER

Appellant has filed a motion for this court to determine its jurisdiction over this appeal. Appellant contends the appeal is premature. We have reviewed the documents on file with this court, and it appears the appeal is timely from a final judgment and that this court has jurisdiction.

On September 15, 2017, after a seven-day bench trial, the district court entered an "Amended Order" dismissing appellant's complaint, dismissing cross-claims, and amending its oral ruling awarding damages on respondents' counterclaim - thereby finally resolving all claims by and against all parties. It appears from the district court docket entries that no post-judgment tolling motions were filed. The amended order was served, but no written notice of entry was filed; and on October 16, 2017, appellant filed a timely notice of appeal. NRAP 4.

Subsequently, on March 12, 2018, the district court entered a "judgment" confirming the amended order. Written notice of entry was filed



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and served on March 13, 2018; and appellant filed an amended notice of appeal on March 23, 2018. Respondents then filed a "Motion to Amend Judgment" on March 27, 2018; and appellant filed a "Motion for Judgment as a Matter of Law, For Relief from Judgment, To Alter and Amend the Judgment, To Amend the Findings, and For New Trial" on March 30, 2018.

First, the "judgment" entered March 12, 2018, made no substantive changes to the terms of the amended order; therefore, it does not establish a new time to appeal. "The appealability of an order or judgment depends on 'what the order or judgment actually does, not what it is called.'" *Campos-Garcia v. Johnson*, 130 Nev. Adv. Op. 64, 331 P.3d 890, 891 (2014) (quoting *Valley Bank of Nev. v. Ginsburg*, 110 Nev. 440, 445, 874 P.2d 729, 733 (1994) (emphasis omitted)); *Lee v. GNLV Corp.*, 116 Nev. 424, 426–27, 996 P.2d 416, 417–18 (2000); *Taylor v. Barringer*, 75 Nev. 409, 344 P.2d 676 (1959); see also *Morrell v. Edwards*, 98 Nev. 91, 640 P.2d 1322 (1982) (stating that that test for determining whether an appeal is properly taken from an amended judgment rather than the judgment originally entered depends upon whether the amendment disturbed or revised legal rights and obligations which the prior judgment had plainly and properly settled with finality). Accordingly, the appeal was properly taken from the amended order.

Second, the appeal is properly before this court from the amended notice of appeal as well. The motions to amend and for new trial, filed after the amended notice of appeal, do not toll the time to appeal, and are not relevant to this court's jurisdiction. Indeed, the district court has been divested of its jurisdiction to grant the motions as of the docketing of the appeal. See *Foster v. Dingwall*, 126 Nev. 49, 52-53, 228 P.3d 453, 454-

55 (2010) (holding that timely notice of appeal divests district court of jurisdiction except as to matters independent from the appealed order).

Appellant shall have 15 days from the date of this order to file the request for transcripts; appellant shall have 60 days from the date of this order to file and serve the opening brief and appendix. We caution appellant that no further extensions for filing the request for transcripts will be granted.

It is so ORDERED.

, C.J.

cc: Lewis Roca Rothgerber Christie LLP/Las Vegas
The Law Office of Richard G. Campbell, Jr., Inc.
Howard & Howard Attorneys PLLC
Simons Law PC