

IN THE SUPREME COURT OF THE STATE OF NEVADA

LYNITA SUE NELSON,
Appellant,
vs.
ERIC L. NELSON, INDIVIDUALLY
AND IN HIS CAPACITY AS
INVESTMENT TRUSTEE OF THE
ERIC L. NELSON NEVADA TRUST
DATED MAY 30, 2001; AND MATT
KLBACKA, AS DISTRIBUTION
TRUSTEE OF THE ERIC L. NELSON
NEVADA TRUST DATED MAY 30, 2001,
Respondents.

No. 77473

FILED

AUG 06 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DENYING MOTION

Respondent Matt Klabacka filed a motion to dismiss this appeal on the grounds that the notice of appeal was untimely filed and the order appealed from is not appealable. Respondent Eric L. Nelson, both individually and as investment trustee of the Eric L. Nelson Nevada Trust, joined in the motion. Appellant opposes the motion. Respondents Klabacka and Nelson have filed a reply.

This court has considered the arguments of the parties, and denies the motion to dismiss. Appellant timely filed the notice of appeal from the order entered October 16, 2018, in which the district court resolved her motion for reconsideration and denied her request for a preliminary injunction. NRAP 3A(b)(3); *see also* NRAP 4(a)(4); *AA Primo Builders v. Washington*, 126 Nev. 578, 245 P.3d 1190 (2010) (eliminating the distinction between an NRCP 59(e) motion to alter or amend and a motion to

reconsider). In addition, respondents' argument regarding the appealability of the denial of a preliminary injunction under NRAP 65 or EDCR 5.517 appear to go to the merits of the appeal and are not appropriate for disposition in a motion to dismiss. *See Taylor v. Barringer*, 75 Nev. 409, 410, 344 P.2d 676, 676 (1959).

It is so ORDERED.

Hardesty, J.
Hardesty

Stiglich, J.
Stiglich

Silver, J.
Silver

cc: The Dickerson Karacsonyi Law Group
Throne & Hauser
Solomon Dwiggin & Freer, Ltd.