

IN THE SUPREME COURT OF THE STATE OF NEVADA

LARRY J. WILLARD, INDIVIDUALLY
AND AS TRUSTEE OF THE LARRY
JAMES WILLARD TRUST FUND; AND
OVERLAND DEVELOPMENT
CORPORATION, A CALIFORNIA
CORPORATION,

Appellants,

vs.

BERRY-HINCKLEY INDUSTRIES, A
NEVADA CORPORATION; AND JERRY
HERBST, AN INDIVIDUAL,

Respondents.

No. 77780

FILED

AUG 08 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER TO SHOW CAUSE

This is an appeal from several orders in a breach of contract action. Preliminary review of the docketing statement and documents before this court reveals a potential jurisdictional defect.

Appellants appeal from a district court order filed on March 6, 2018, that granted respondents' motion for sanctions and dismissed appellants' claims against respondents with prejudice. Next, appellants appeal from a district court order denying an NRCP 60(b) motion. And finally, appellants appeal from a district court judgment filed December 11, 2018.


It appears that the December 11 judgment is superfluous as it dismisses appellants' claims against respondents that were previously dismissed in the March 6 order, and it dismisses respondents' counterclaims against appellants that were previously dismissed in an order filed April 13, 2018, which was not appealed. The final judgment is the first order that adjudicates all rights and liabilities; duplicative or superfluous judgments that do not modify settled legal rights and obligations are not appealable.

Campos-Garcia v. Johnson, 130 Nev. 610, 331 P.3d 890 (2014). Thus, it appears that the April 13, 2018, order dismissing respondents' counterclaims was the final judgment in the underlying matter, *see Lee v. GNLV Corp.*, 116 Nev. 424, 426, 996 P.2d 416, 417 (2000) (defining a final judgment), and that the December 11 judgment is a superfluous judgment that is not appealable. Additionally, because no appeal was taken from the final judgment, it appears that the March 6 order is also not appealable. *See Consolidated Generator-Nev., Inc. v. Cummins Engine Co.*, 114 Nev. 1304, 971 P.2d 1251 (1998) (indicating that interlocutory orders are not appealable unless specially authorized by rule or statute, but may be considered in the context of an appeal from the final judgment).

Accordingly, appellants shall have 30 days from the date of this order to show cause why the appeal should not be dismissed in regard to the March 6, 2018, order and the December 11, 2018, judgment.¹ Respondents may file any reply within 14 days of service of appellants' response. We caution appellants that failure to demonstrate that this court has jurisdiction may result in the partial dismissal of this appeal.

The briefing schedule is suspended pending further order of this court.

It is so ORDERED.

 C.J.

¹Appellants' appeal from the order denying NRCP 60(b) relief was timely filed, and that appeal may proceed. *See Holiday Inn Downtown v. Barnett*, 103 Nev. 60, 732 P.2d 1376 (1987).

cc: Robertson, Johnson, Miller & Williamson
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