

IN THE SUPREME COURT OF THE STATE OF NEVADA

SATICOY BAY, LLC SERIES 34
INNISBROOK,

Appellant,

vs.

THORNBURG MORTGAGE
SECURITIES TRUST 2007-3; FRANK
TIMPA; MADELAINE TIMPA; TIMPA
TRUST; RED ROCK FINANCIAL
SERVICES, LLC; SPANISH TRAIL
MASTER ASSOCIATION; REPUBLIC
SERVICES; AND LAS VEGAS VALLEY
WATER DISTRICT,

Respondents.

No. 80111

FILED

DEC 16 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

*ORDER DENYING RENEWED MOTION TO DISMISS AND
REINSTATING BRIEFING*

Respondent Spanish Trail Master Association has filed a renewed motion to dismiss this appeal for lack of jurisdiction. Appellant opposes the motion and Spanish Trail has filed a reply.

Spanish Trail argues that appellant's notice of appeal was untimely filed because it was not filed within 30 days of service of the notice of entry of order of the district court's December 3, 2018, Findings of Fact, Conclusions of Law, and Order, which Spanish Trail contends is the final judgment in the underlying matter. However, on September 11, 2019, the district court entered an order disposing of an outstanding claim for interpleader. This order, as appellant argues, appears to be 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). Appellant's notice of appeal was timely filed after resolution of a motion to alter or amend the September 11 order, which tolled the appeal period. Accordingly, it appears

that this court has jurisdiction, and this appeal may proceed. The renewed motion to dismiss is denied.¹

The briefing schedule is reinstated as follows. Appellant shall have 30 days from the date of this order to file and serve the opening brief. Thereafter, briefing shall proceed in accordance with NRAP 31(a)(1).

It is so ORDERED.


_____, J.
Gibbons


_____, J.
Stiglich


_____, J.
Silver

cc: Roger P. Croteau & Associates, Ltd.
Akerman LLP/Las Vegas
Koch & Scow, LLC
Avalon Legal Group LLC
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The Law Office of Travis Akin

¹Spanish Trail's judicial estoppel argument appears to go to the merits of the appeal and is not properly considered in a motion to dismiss. *See Taylor v. Barringer*, 75 Nev. 409, 410, 344 P.2d 676 (1959) (a motion to dismiss appeal that is filed prior to briefing and that goes to the merit of the appeal "is not proper ground for the dismissal of the appeal.").