

IN THE SUPREME COURT OF THE STATE OF NEVADA

MEI-GSR HOLDINGS, LLC, AM-GSR
HOLDINGS, LLC, and GAGE
VILLAGE COMMERCIAL
DEVELOPMENT, LLC,

Appellants,

v.

ALBERT THOMAS, *et al.*,

Respondents.

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86985 Elizabeth A. Brown
87243 Clerk of Supreme Court
87303
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**MOTION TO CONSOLIDATE CERTAIN APPEALS AND STAY
BRIEFING PENDING RESOLUTION OF CERTAIN MOTIONS**

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I. INTRODUCTION

Most district court cases generate one or two appeals—and therefore one or two dockets in this Court. However, as shown in the pending Motion and Order to Show Cause in Case Numbers 85915 and 86092, Respondents’ and the district court’s failure to appreciate the effect of a final judgment has created a procedural morass of overlapping and successive appeals. As a result, there are multiple dockets pending in this Court related to Appellants’ underlying “merits” appeal from the Final Judgment (Amended Final Judgment, Second Amended Final Monetary Judgment, and Corrected Second Amended Final Monetary Judgment) and issues arising from it (and them).

All merits-related appeals should be consolidated into Case Number 86092 and briefing should be stayed pending the resolution of the Order to Show Cause in Case Number 86092. Thus, Case Numbers 86092, 86985, 87303, and 87567 should be consolidated and briefing deadlines stayed as ordered in Case Number 86092 until a coordinated briefing schedule is established by the Court or stipulation. Separately, Case Numbers 87243 and 87566 should be consolidated into their own docket.

II. STATEMENT OF FACTS

This long running litigation started in 2012. After many twists, turns, starts, stops, and a trip to this Court, the district court entered an order awarding punitive damages *seven years* after compensatory damages were awarded. Because the punitive damages order finally resolved the only lingering issue in the case, Appellants filed a

notice of appeal to protect their rights. Respondents cross-appealed. This appeal is docketed in Case Number 86092.

On February 2, 2023, the district court entered a “Final Judgment.” Appellants filed a notice of appeal from the Final Judgment, and it was added to pending Case Number 86092. Again, Respondents cross-appealed.

Later, Respondents filed a motion to alter or amend the Final Judgment, which the district court granted in part. After the motion to alter or amend, the district court entered an “Amended Final Judgment” on April 10, 2023. Appellants filed a notice of appeal from the Amended Final Judgment, and it too was added to Case Number 86092. Respondents cross-appealed from the Amended Final Judgment as well.

Meanwhile, in Case Number 85915, which involved a separate preliminary injunction appeal, Appellants raised that the Amended Final Judgment resolved all claims between all parties and extinguished all interim relief like the preliminary injunction and the receivership *pendente lite*. In response, this Court issued an Order to Show Cause and stayed briefing in Case Number 86092 and separately stayed briefing in the preliminary injunction appeal (Case Number 85915¹) pending resolution of the Order to Show Cause.

Respondents reacted by filing a motion to certify the already final—and already appealed—Amended Final Judgment. The district court expressed skepticism about the

¹ Case Number 85915 should remain in its own separate docket.

procedural propriety of certification but granted the motion and certified the Amended Final Judgment “in an abundance of caution.” Following “certification,” the district court entered a confusingly titled “Second Amended Final Monetary Judgment” even though there is no *first* amended final *monetary* judgment. Then, because of a math error, the district court entered a “Corrected Second Amended Final Monetary Judgment.”

Appellants appealed both the “Second Amended Final Monetary Judgment” and the “Corrected Second Amended Final Monetary Judgment,” and this appeal was given a new docket number, Case Number 86985. Respondents again cross-appealed. Appellants’ opening brief in Case Number 86985 is currently due on November 16, 2023.

Despite multiple “final” judgments that should have concluded the trial court litigation, the district court proceeding has continued with no end in sight. As a result, the district court has entered orders requiring Appellants to pay certain monthly amounts to a zombie-receiver who should have terminated as a matter of law when final judgment(s) on the merits was entered. Equally as bad, these payments function as a form of continuing compensatory damage beyond any relief in the Respondents’ operative complaint. So far, there are two appeals from such orders in Case Numbers 87303 and 87567—with another certain to come each month. These orders implicate issues arising from the final judgment(s) and should be addressed with them.

Finally, even though the final judgment(s) divested the district court of jurisdiction to continue, it conducted a weeklong post-judgment contempt “trial” in

June 2023. Given the strange procedural posture of a post-judgment contempt proceeding, Appellants appealed the outcome and its associated attorney fee award in Case Numbers 87243 and 87566.

Therefore, the “merits” related appeals in Case Numbers 86092, 86985, 87303, and 87567 should be consolidated and the previously entered stay in Case Number 86092 should apply to those matters until the Order to Show Cause is resolved.

The Court should also consolidate the two contempt related appeals (Case Numbers 87243 and 87566) in Case Number 87243.

III. ARGUMENT

Under NRAP 3(b)(2), this Court may consolidate multiple appeals. Generally, appeals should be consolidated when they “arise from the same district court case,” “involve the same parties,” and consolidation would promote “the interest of judicial economy.” *Somerset Owners Ass’n v. Somerset Dev. Co., Ltd.*, Nos. 79920, 79921, 80843, 80880 & 80881, 2020 WL 3051303, at *1 (Nev. June 5, 2020); *see also REEC Enters., LLC, v. Savannah Falls Homeowners’ Ass’n*, Nos. 79593 & 80312, 2021 WL 931239, at *1 (Nev. March 10, 2021) (“Because the appeals involve the same parties and arise from the same district court case, we elect to consolidate them for disposition.”).

Here, this Court should consolidate Dockets 86092, 86985, 87303, and 87567 as those appeals “arise from the same district court case,” “involve the same parties,” and involve the same issues stemming from the underlying merits of the litigation. *See Somerset Owners Ass’n*, 2020 WL 3051303, at *1. Deciding these matters together

promotes “the interest of judicial economy” and ensures consistent results in a complex and sprawling matter. *See id.* Moreover, staying the briefing schedule on the merits-related appeals until resolution of this Court’s Order to Show Cause in Docket 86092 will conserve judicial resources. The Court’s ruling may impact the substantive issues on appeal.

Similarly, the Court should consolidate the appeals stemming from the rogue, post-judgment contempt trial in Case Number 87243. These appeals also spring from the same proceeding, involve the same parties, and implicate the same law and evidence. *Somerset Owners Ass’n*, 2020 WL 3051303, at *1. Simultaneous resolution of these two appeals will serve judicial efficiency.

IV. CONCLUSION

For these reasons, the Court should consolidate Docket Numbers 86092, 86985, 87303, and 87567, and stay the briefing schedule until resolution of the Order to Show Cause in Case Number 86092.

Separately, the Court should consolidate Case Number 87243 and 87566.

DATED this 8th day of November 2023.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Pisanelli Bice PLLC, and pursuant to NRAP 25(b) and NEFCR 9, on this 8th day of November, 2023, I electronically filed the foregoing **Motion to Consolidate Appeals** with the Clerk of the Court for the Nevada Supreme Court by using the Nevada Supreme Courts E-Filing system (Eflex). Participants in the case who are registered with Eflex as users will be served by the Eflex system.

/s/ Shannon Dinkel

An employee of Pisanelli Bice PLLC