

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARK ADAMS,
Appellant,
vs.
KATRINA HERRLING,
Respondent.

No. 77036

FILED

DEC 10 2018

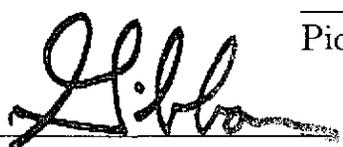
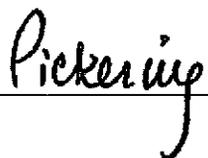
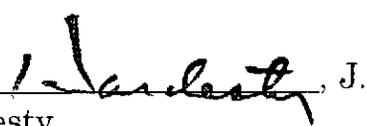
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a decree of custody. Eighth Judicial District Court, Clark County; Gerald W. Hardcastle, Judge; Eighth Judicial District Court, Family Court Division, Clark County; Jennifer Elliott, Judge.

Our review of the documents before this court reveals a jurisdictional defect. The notice of appeal was filed after the filing of a timely tolling motion for a new trial but before that motion was formally resolved. See NRAP 4(a)(4)(D). Although the district court's September 5, 2018, order awards attorney fees related to the motion for a new trial, the order does not grant or deny the motion. It thus appears that the motion for new trial remains pending in the district court and this appeal is premature. See NRAP 4(a)(6). Accordingly, we conclude that we lack jurisdiction, see *id.* ("A premature notice of appeal does not divest the district court of jurisdiction."), and we

ORDER this appeal DISMISSED.

 J.
Gibbons
 J.
Pickering
 J.
Hardesty

18-907624

cc: Chief Judge, The Eighth Judicial District Court
Hon. Gerald W. Hardcastle, Senior Judge
Robert W. Lueck, Ltd.
Kelleher & Kelleher, LLC
Eighth District Court Clerk