

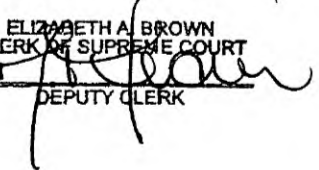
IN THE SUPREME COURT OF THE STATE OF NEVADA

EDGEWORTH FAMILY TRUST;  
AMERICAN GRATING, LLC; BRIAN  
EDGEWORTH AND ANGELA  
EDGEWORTH, INDIVIDUALLY, AND  
AS HUSBAND AND WIFE,  
Appellants,  
vs.  
LAW OFFICE OF DANIEL S. SIMON, A  
PROFESSIONAL CORPORATION;  
DANIEL S. SIMON,  
Respondents,

No. 85977

FILED

JUL 19 2023

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY:   
DEPUTY CLERK

*ORDER DISMISSING APPEAL*

This is an appeal from a district court order denying in part a special motion to dismiss. Eighth Judicial District Court, Clark County; Jessica K. Peterson, Judge.

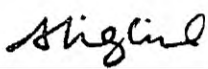
When review of appellants' docketing statement revealed a potential jurisdictional defect, this court ordered appellants to show cause why this appeal should not be dismissed for lack of jurisdiction. In particular, it appeared appellants prematurely filed their notice of appeal in the district court after the filing of two timely motions for reconsideration, but before those motions were resolved in a written order entered by the district court. *See* NRAP 4(a)(4) (regarding tolling motions); *AA Primo Builders LLC v. Washington*, 126 Nev. 578, 585, 245 P.3d 1190, 1195 (2010) (describing when a post-judgment motion for reconsideration carries tolling effect). This court lacks jurisdiction to consider a premature appeal. NRAP 4(a)(6).


In response, appellants suggest that their motion for reconsideration was not a tolling motion because reconsideration was not


sought under any of the rules enumerated in NRAP 4(a)(4) and the motion was not addressed to a final judgment. But appellants' motion is properly treated as a tolling motion to alter or amend where the motion was in writing, timely filed, stated its grounds with particularity, and sought a substantive amendment of an appealable order. *See AA Primo*, 126 Nev. at 585, 245 P.3d at 1195; *Lytle v. Rosemere Estates Prop. Owners Ass'n*, 129 Nev. 923, 926, 314 P.3d 946, 948 (2013) (recognizing the term "judgment" in NRCP 59 includes "any appealable order, not just final judgments" and that a motion to alter or amend an appealable order generally tolls the time to appeal from that order).

Appellants do not dispute that their notice of appeal was prematurely filed in the district court after the motion for reconsideration and prior to entry of a written order resolving that motion. And appellants concede that the motion remains pending in the district court. Accordingly, this court lacks jurisdiction,<sup>1</sup> and we

ORDER this appeal DISMISSED.

  
\_\_\_\_\_, C.J.  
Stiglich

  
\_\_\_\_\_, J.  
Herndon

  
\_\_\_\_\_, J.  
Farraguirre

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<sup>1</sup>Appellants' request that this court stay this appeal indefinitely pending entry of a written order resolving the tolling motion is denied. Appellants may file a new notice of appeal once the district court enters a written order resolving the motion for reconsideration.

cc: Hon. Jessica K. Peterson, District Judge  
Janet Trost, Settlement Judge  
Tucker Ellis LLP / California  
Morris Law Group  
Christiansen Trial Lawyers  
Eighth District Court Clerk