

IN THE SUPREME COURT OF THE STATE OF NEVADA

J.A. JONES CONSTRUCTION
COMPANY,

Appellant,

vs.

LEHRER MCGOVERN BOVIS, INC.
AND NATIONAL FIRE INSURANCE
COMPANY OF HARTFORD,

Respondents.

No. 40755

FILED

NOV 23 2005

JANET L. BLOOM
CLERK OF SUPREME COURT
J. Richards

ORDER DISMISSING APPEAL

This appeal is from a district court order granting in part respondent Lehrer McGovern Bovis' motion for attorney fees. Pursuant to the stipulation of the parties and cause appearing, we dismiss this appeal. The parties shall bear their own costs and attorney fees. NRAP 42(b).

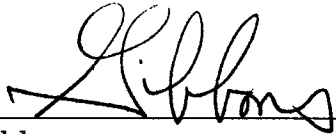
In their stipulation to dismiss this appeal, the parties request that this court vacate district court orders awarding costs and attorney fees to respondent Lehrer McGovern Bovis, Inc. (LMB) "because the judgment upon which they were based has been reversed and remanded" in a separate appeal. While this court may reverse a decision of a district court on the merits, it does not "vacate" district court orders based upon parties' stipulations. However, this matter is remanded to the district court to conduct appropriate proceedings, if any, to vacate its orders, as necessary. We note that if the district court declines to grant the requested relief, appellant may file a motion to reinstate this appeal.

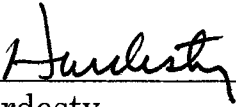
The parties also request in their stipulation that this appeal be dismissed "without prejudice to [LMB's] right to move . . . to reinstate the vacated orders or for any other appropriate order regarding fees and costs" after retrial, and also "without prejudice to Appellant's right to

oppose and defend against any such motion, and to appeal any order entered reinstating the vacated orders or granting [LMB] any other relief regarding fees and costs.” Without expressing an opinion regarding the existence of remedies available to the parties after conclusion of proceedings below, including an appeal to this court, we note, generally, that any aggrieved party may appeal from a “special order made after final judgment” of the district court. See NRAP 3A(b)(2); see also Smith v. Crown Financial Services, 111 Nev. 277, 280 n.2, 890 P.2d 769, 771 n.2 (an order of the district court awarding attorney fees and costs is a special order made after final judgment).

It is so ORDERED.¹

 J.
Maupin

 J.
Gibbons

 J.
Hardesty

cc: Hon. Kenneth Cory, District Judge
Lester H. Berkson, Settlement Judge
Braude & Margulies, P.C.
Haney, Woloson & Mullins
Harrison Kemp & Jones, LLP
Clark County Clerk

¹Respondents have filed a motion and the parties have filed a stipulation to extend the time for respondents to file the answering brief. In light of this order, we deny respondents’ extension motion as moot and we will take no further action on the parties’ stipulation to extend time.