

District Court, Larimer County, State of Colorado 201 LaPorte Avenue, Suite 100 Fort Collins, CO 80521-2761 (970) 494-3500	DATE FILED: October 29, 2018 CASE NUMBER: 2018CV149
Plaintiff: Eric Sutherland v. Defendants: The City of Fort Collins, et al.	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <hr/> Case Number: 2018CV149 Courtroom: 5B
STATUS ORDER REGARDING NOTICE OF APPEAL	

Plaintiff filed a Notice of Appeal on October 23, 2018. Among other things, Plaintiff appeals this Court’s: Order Granting Defendants’ Motions to Dismiss as to Defendants City of Fort Collins, Steve Miller, and Irene Josey; Order Granting Defendants’ Timnath Development Authority and Compass Mortgage Corporation’s Joint Motion to Dismiss, and the related Order Denying Reconsideration; and Order Granting Timnath Development Authority’s and Compass Mortgage Corporations’ Motion for Attorneys’ Fees and Bill of Costs. Notice of Appeal at 3.

The Court now issues a Status Order regarding the effect of this Notice of Appeal on the motions currently pending before the Court.

I. Legal Standards

“Upon the filing of the notice of appeal, the appellate court shall have exclusive jurisdiction over the appeal...”. C.A.R. 3(a). This provision “must be read as requiring transfer of jurisdiction to the court of appeals ‘[u]pon the filing of the notice of appeal’ of a final judgment.” *Musick v. Woznicki*, 136 P.3d 244, 249 (Colo. 2006) (quoting C.A.R. 3(a)) (alteration and emphasis in original).

“Generally, the filing of a notice of appeal shifts jurisdiction to the appellate court, thus divesting the trial court of jurisdiction to conduct further substantive action

related to the judgment on appeal.” *Id.* at 246. “[A] trial court retains jurisdiction to act on matters that are not relative to and do not affect the judgment on appeal.” *Id.* at 248 (quoting *People v. Stewart*, 55 P.3d 107, 126 (Colo.2002)). “[A] trial court loses jurisdiction to determine substantive matters related to the judgment on appeal once the appeal is filed only if the appeal is of a final judgment.” *Id.* at 250.

II. Application of Law

Several motions are currently pending before this Court. The pending motions are:

- (1) The City of Fort Collins’ Combined Motion for Attorneys’ Fees and Bill of Costs
- (2) Plaintiff’s Motion for Determination of Questions of Law Under Rule 56(h)
- (3) Plaintiff’s Motion for Correction of the Record in Advance of Appeal
- (4) Defendants Miller and Josey’s Verified Motion for Award of Attorney Fees
- (5) Plaintiff’s Motion for a Hearing of Defendant City of Fort Collins’ Combined Motion for Attorneys’ Fees and Costs
- (6) The City of Fort Collins’ Motion to Strike Plaintiff’s Motion for Determination of Questions of Law Under Rule 56(h).

Pursuant to the notice of appeal of several final judgment orders from this Court, this Court does not have jurisdiction to consider any of the motions pending before it. The Court will not consider any of these pending motions further until the Court reacquires jurisdiction.

Dated: October 29, 2018.

BY THE COURT:



Gregory M. Lammons
District Court Judge