

District Court, Larimer County, State of Colorado 201 LaPorte Avenue, Suite 100 Fort Collins, CO 80521-2761 (970) 494-3500	DATE FILED: May 29, 2019 CASE NUMBER: 2018CV149
<b>Plaintiff:</b> Eric Sutherland  v.	<b>▲ COURT USE ONLY ▲</b>
<b>Defendants:</b> The City of Fort Collins, et al.	Case Number: 2018CV149 Courtroom: 5B
<b>STATUS ORDER REGARDING NOTICE OF APPEAL</b>	

Plaintiff filed a second Notice of Appeal on May 6, 2019. 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 motion 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

There is currently one motion pending before the Court, Plaintiff’s “Motion to Deem this Proceeding *coram non judice* since June 23,2018”. Pursuant to the notice of appeal of several final judgment orders from this Court, this Court does not have jurisdiction to consider this pending motion. The Court will not consider this motion further unless directed to do so by the Court of Appeals.

Dated: May 29, 2019.

BY THE COURT:



Gregory M. Lammons  
District Court Judge