

IN THE SUPREME COURT OF THE STATE OF MONTANA
Supreme Court No. DA-25-0044

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RYAN DEAN GABRIEL,

Plaintiff and Appellant,

v.

FREDERICK "FRITZ" J. GROENKE
dba MONTANA REAL ESTATE GROUP,
TAYLOR KAI GROENKE,
GROENKE HOLDINGS, LLC, and
MONTANA REGIONAL MLS, LLC,

Defendants and Appellees.

APPELLEE KAI GROENKE'S MOTION TO DISMISS APPEAL

Defendant/Appellee Kai Groenke moves to dismiss the appeal filed by
Plaintiff/Appellant for the reason that the Court's Order of December 31, 2024,

which declared Plaintiff/Appellant a vexatious litigant and ordered relief, is not a final order and Plaintiff/Appellant's appeal is premature.

A final judgment conclusively determines the rights of the parties and settles all claims in controversy in an action or proceeding, including any necessary determination of the amount of costs and attorney fees awarded or sanction imposed. Rule 4(1)(a) M.R. App. P. Judgments and orders are not appealable if the order adjudicates fewer than all claims as to all parties and leaves matters in the litigation undetermined. Rule 6(5)(a) M.R. App. P. A notice of appeal filed prior to the district court's ruling on any necessary determination of the amount of costs and attorney fees awarded, or sanctions imposed, may be dismissed *sua sponte* and shall be dismissed upon the motion of any party. Rule 4(5)(a)(iii) M.R. App. P.

The Order Plaintiff/Appellant seeks to appeal is not final and not yet appealable. Plaintiff's claims against one of the Defendants, Montana Regional MLS, LLC, have not yet been dismissed and the trial court is in the process of determining the amount of Defendant Kai Groenke's award of attorney's fees. Furthermore, Plaintiff/Appellant has not obtained a certification under Rule 54(b) M.R.Civ.P. that the Court's Order qualifies as a final order and no basis exists for such certification. *See* Rule 6(6) M.R. App. P. Accordingly, the appeal of Plaintiff/Appellant must be dismissed. Rule 4(5)(a)(iii) M.R. App. P. The district court is not deprived of jurisdiction to enter orders and judgments on Defendant

Kai Groenke's award of fees, costs, or sanctions by Plaintiff/Appellant's premature filing of a notice of appeal. Rule 58(e) M.R.Civ. P.; Rule 6(5)(a) M.R. App. P.

Based on the foregoing points and authorities, Defendant/Appellee Kai Groenke respectfully requests the Court to dismiss the above-captioned appeal and to order that the District Court retains jurisdiction to determine the amount of her fee award and enter judgment thereon.

The other Defendants have been contacted regarding this Motion and all Defendants have stated they do not oppose it.

DATED this 24th day of January 2025.

/s/Susan Ridgeway
Susan G. Ridgeway
HALL & EVANS, LLC
Attorneys for Taylor Kai Groenke
Defendant/Appellee

CERTIFICATE OF SERVICE

I, Susan G. Ridgeway, hereby certify that I have served true and accurate copies of the foregoing Motion - Opposed to the following on 01-24-2025:

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Electronically signed by Donna Allen on behalf of Susan G. Ridgeway
Dated: 01-24-2025