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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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Robert Facciola, et al.,

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No. CV-10-1025-PHX-FJM

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Plaintiffs,

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ORDER

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vs.

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Greenberg Traurig LLP, et al.,

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Defendants.

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Lead plaintiffs have filed a motion to extend time to appeal or alternatively for reconsideration, and a motion for expedited ruling (doc. 477). Plaintiffs ask us to reconsider our order finding moot their motion for entry of final judgment in favor of the MHM defendants (doc. 476). In that order we concluded that the entry of a separate final judgment in favor of MHM was unnecessary because the filing of the final judgments against Greenberg and Quarles disposed of the entire case leaving nothing pending in this action. Once those final judgments were entered, the earlier interlocutory orders involving MHM became final and appealable. See American Ironworks & Erectors Inc. v. North Am. Constr. Corp., 248 F.3d 892, 897-98 (9th Cir. 2001).

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Plaintiffs now express concern that they must appeal from the Greenberg and Quarles final judgments calling into question the finality of those judgments and leaving open the possibility of a delay in the distribution of the settlement proceeds. We disagree. Plaintiffs

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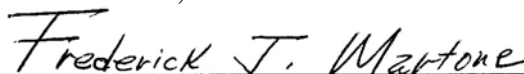
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1 can appeal the two orders entered in favor of MHM (docs. 200 and 289) which became final
2 and appealable as a result of the entry of the judgments resolving all claims in this action.
3 They would not need to appeal the judgments entered against Greenberg and Quarles. See
4 Fed. R. App. 3(c)(1)(B) (a notice of appeal must “designate the judgment, order, or part
5 thereof being appealed.”); 16A Wright & Miller, Fed. Prac. & Proc. § 3949.4 (4th ed. 2012);
6 Finch v. Fort Bend Ind. Sch. Dist., 333 F.3d 555, 565 (5th Cir. 2003) (“When an appellant
7 chooses to appeal specific determinations of the district court—rather than simply appealing
8 from an entire judgment—only the specified issues may be raised on appeal.”). Accordingly
9 we deny plaintiffs’ motion to reconsider this ruling.

10 We grant plaintiffs’ motion to extend the time to appeal. We may extend the time to
11 file a notice of appeal if the party shows excusable neglect or good cause. Fed. R. App. P.
12 4(a)(5)(A)(ii). In considering a motion to extend the time to appeal we will consider (1) the
13 reason for the delay, (2) whether the moving party acted in good faith, (3) the danger of
14 prejudice to the non-moving party, and (4) the length of delay and its potential impact on
15 judicial proceedings. Pincay v. Andrews, 389 F.3d 853, 855-56 (9th Cir. 1996). Each of
16 these factors weighs in favor of an extension. Lead plaintiffs acted diligently and in good
17 faith in structuring the Greenberg and Quarles final judgments so as to avoid delay in
18 disbursing settlement proceeds. MHM would not be prejudiced by the delay because
19 plaintiffs have consistently made known their intention to appeal. The length of the delay
20 is insubstantial and will not affect future judicial proceedings. Accordingly, we find
21 plaintiffs’ neglect excusable and grant plaintiffs’ motion to extend the time to appeal the
22 orders in favor of MHM. Plaintiffs’ notice of appeal must be filed no later than 14 days from
23 the entry of this order. See Fed. R. App. P. 4(a)(5)(C).

24 **IT IS ORDERED GRANTING** lead plaintiffs’ motion to extend, **DENYING** the
25 motion for reconsideration, and **GRANTING** the motion for expedited ruling (doc. 477).

26 DATED this 4th day of December, 2012.

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Frederick J. Martone
United States District Judge