

1 {1} Defendant appeals, pro se, from a district court judgment awarding Plaintiff
2 damages and attorney fees on its complaint for breach of restrictive covenants.
3 Plaintiff filed a cross-appeal. We issued a calendar notice proposing to dismiss both
4 appeals because Defendant’s motion to reconsider is still pending in the district court.
5 Defendant has filed a pleading that we construe as a memorandum in opposition. *See*
6 Rule 12-210(D) NMRA. Plaintiff has responded with a memorandum indicating that
7 it agrees with our calendar notice. We dismiss the appeal and the cross-appeal.

8 As we observed in our calendar notice, the judgment was entered on June 8,
9 2015. [RP 509] Defendant filed a timely notice of appeal on June 17, 2015. [RP 516]
10 Defendant filed a motion for reconsideration on June 18, 2015, which is within thirty
11 days of the judgment. [RP 517] Plaintiff filed a timely notice of cross-appeal on July
12 6, 2015. [RP 522]

13 “[O]ur appellate jurisdiction is limited to review of any final judgment or
14 decision, any interlocutory order or decision which practically disposes of the merits
15 of the action, or any final order after entry of judgment which affects substantial
16 rights.” *Capco Acquisub, Inc. v. Greka Energy Corp.*, 2007-NMCA-011, ¶ 17, 140
17 N.M. 920, 149 P.3d 1017 (alteration, internal quotation marks, and citation omitted).
18 Pursuant to Rule 12-201(D)(1) NMRA, when a post-judgment motion is filed that

1 could alter, amend, or moot the judgment, the judgment is no longer final for purposes
2 of appeal, and the time for filing a notice of appeal begins to run from the filing of the
3 order disposing of the post-judgment motion. Defendant does not point out any error
4 in fact or law in our calendar notice. Accordingly, because the district court judge
5 never expressly ruled on the merits of the post-trial motion in this case, we dismiss
6 both the notice of appeal and the notice of cross-appeal for lack of a final, appealable
7 order. *See* Rule 12-201(D)(1) (requiring order that expressly disposes of the motion).

8 **IT IS SO ORDERED.**

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M. MONICA ZAMORA, Judge

11 **WE CONCUR:**

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LINDA M. VANZI, Judge

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TIMOTHY L. GARCIA, Judge