

***IN THE SUPREME COURT, STATE OF WYOMING***

**2018 WY 125**

***October Term, A.D. 2018***

***November 21, 2018***

**MICHELLE L. BOZNER,**

**Appellant  
(Plaintiff),**

**v.**

**JIM'S WATER SERVICE, INC.,**

**Appellee  
(Defendant).**

**S-18-0176**

**ORDER DISMISSING APPEAL**

**This matter** came before the Court upon its own motion following a review of recently docketed appeals. Appellant filed this appeal to challenge the district court's "Order Granting Summary Judgment for Jim's Water Service Against Michelle Bozner." By that order, the district court appears to have resolved all claims stated in Appellant Michelle Bozner's complaint. Nevertheless, this Court concludes the "Order Granting Summary Judgment for Jim's Water Service Against Michelle Bozner" is not a final appealable order, because it appears Mickey Hoy's claims have not been fully resolved.

While Appellant and Mr. Hoy filed separate complaints, upon motion the cases were consolidated into Appellant's docket, Civil No. C-16-231-L. This Court has written the following about consolidation:

the word 'consolidation' has different connotations. One of these, which actually is not a consolidation, but is described as such, occurs when all but one of several pending actions are stayed until the trial of the one not stayed, it being determinative as to the others; the second connotation describes the instance in which several actions are combined into one action, lose their separate identity as such, and become a single action in which a single judgment is rendered; and the third connotation describes an instance in which several actions are tried together, but retain their separate character and require the entry of separate judgment. 9 Wright

and Miller, Federal Practice and Procedure, § 2382, p, 254 (1971). While both the second and third types of consolidation are contemplated by the language of Rule 42 of the Federal Rules of Civil Procedure and Rule 42 of the Wyoming Rules of Civil Procedure, it appears that historically the courts have recognized only the third style of consolidation.

*Bard Ranch, Inc. v. Weber*, 538 P.2d 24, 39 (Wyo. 1975).

Here, in its “Order of Consolidation,” the district court wrote: “hereafter all matters pertaining [to] Plaintiffs shall be brought under Civil No. C-16-231-L and shall be heard by the Honorable Richard L. Lavery.” Based on this Court’s quoted precedent on consolidation, this Court concludes the district court’s consolidation order effectuated a consolidation of the second type. The two actions were combined into one action, those actions lost their separate identity, and there will be one final judgment.

Given the effect of the consolidation order, this Court concludes the “Order Granting Summary Judgment for Jim’s Water Service Against Michelle Bozner” is not a final appealable order, because the order does not determine the action or “resolve all outstanding issues.” *In re KRA*, 2004 WY 18, ¶ 10, 85 P.3d 432, 436 (Wyo. 2004); W.R.A.P. 1.05(a). It appears Mr. Hoy’s claims against Jim’s Water Service have not been resolved. Also, the district court has not entered a certification pursuant to W.R.C.P. 54(b). It is, therefore,

**ORDERED** that the captioned appeal be, and hereby is, dismissed.

**DATED** this 21<sup>th</sup> day of November, 2018.

**BY THE COURT:**

/s/

**MICHAEL K. DAVIS**  
**Chief Justice**