

IN THE SUPREME COURT OF THE STATE OF NEVADA

BIVINS CONSTRUCTION CO., INC., A
NEVADA CORPORATION,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA, IN AND FOR THE
COUNTY OF CLARK, AND THE HONORABLE
MICHAEL CHERRY, DISTRICT JUDGE,
Respondents,

and

RONNIE CAMMISA; JAMES CAMPBELL;
CURTIS SULLIVAN; TERRY JACKSON; ALL
PURPOSE OF LAS VEGAS, INC.; BRADLEY
WINDOW CORPORATION; CARL'S AIR
CONDITIONING & SHEET METAL; CEDAR
ROOFING, INC.; CLASSIC DOOR & TRIM
COMPANY, INC.; GMS CONCRETE, INC.;
GILMORE & MARTIN CONSTRUCTION;
PETERSON PLASTERING, INC.; PIONEER
PLUMBING, INC.; ROCKY TOP
CONSTRUCTION, INC.; SEARS ROEBUCK
AND CO.; SOUTHERN ELECTRIC, INC.;
SOUTHERN NEVADA CABINETS, INC.; THE
ROOFING CO.; AND SOLAR INDUSTRIES,
INC.,
Real Parties in Interest.

No. 44653

FILED

APR 17 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER GRANTING
PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order that granted a motion for class certification and to

amend the caption, filed by real parties in interest Ronnie Cammisa, James Campbell, Curtis Sullivan, and Terry Jackson in the underlying constructional defect case.

Petitioner asks this court to issue a writ of mandamus directing the district court to vacate its order granting the real parties in interest's motion for class certification and to amend the caption. After the district court entered the challenged order and the instant petition was filed, this court issued its decision in Shuette v. Beazer Homes Holdings Corp.,¹ in which we explained the requirements for class certification and concluded that, "as a practical matter, single-family residence constructional defect cases will rarely be appropriate for class action treatment."² This court noted, however, that "while constructional defect cases will more often than not be inappropriate for class action treatment, some constructional defects matters might be amenable to class action certification."³

Because the district court did not have the benefit of considering the real parties in interest's motion for class certification in light of the guidance provided in Shuette, we conclude that the district court should reconsider the motion in light of that decision. Accordingly, we grant the petition. The clerk of this court shall issue a writ of mandamus directing the district court to vacate its order granting the real

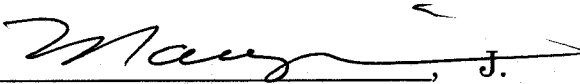
¹121 Nev. ___, 124 P.3d 530 (2005).


²Id. at ___, 124 P.3d at 542.

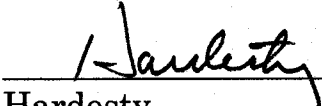
³Id. at ___, 124 P.3d at 544.

parties in interest's motion for class certification and to amend the caption. The writ of mandamus shall further direct the district court to reconsider the motion in light of this court's decision in Shuette.

It is so ORDERED.


_____, J.
Maupin


_____, J.
Gibbons


_____, J.
Hardesty

cc: Hon. Michael A. Cherry, District Judge
Lorber, Greenfield & Polito, LLP
Pengilly Law Firm
Bret W. Eubank
Hamrick & Evans LLP
Hutchison & Steffen, Ltd.
Law Office of Vicki L. Driscoll
Lincoln, Gustafson & Cercos
Parker Nelson & Arin, Chtd.
Perlstein, Stewart & Hurtik
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Robinson & Wood
Ryan, Marks, Johnson & Todd
Stephenson & Dickinson
Thagard & Brown, LLP
Michael C. Van
Clark County Clerk