

IN THE SUPREME COURT OF THE STATE OF NEVADA

LGD LAS VEGAS WHITNEY RANCH
LIMITED PARTNERSHIP, A
CALIFORNIA LIMITED
PARTNERSHIP,

Appellant,

vs.

OTR/LANDGRANT WHITNEY RANCH
CENTER, L.P., F/K/A
RADNOR/OTR/LANDGRANT
WHITNEY RANCH CENTER LIMITED
PARTNERSHIP, A NEVADA LIMITED
PARTNERSHIP; BOARD OF THE
STATE TEACHERS RETIREMENT
SYSTEM OF OHIO, A FOREIGN
ENTITY; AND OTR, AN OHIO
GENERAL PARTNERSHIP,

Respondents.

No. 43525

FILED

OCT 10 2005

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

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PARTNERSHIP; BOARD OF THE
STATE TEACHERS RETIREMENT
SYSTEM OF OHIO, A FOREIGN
ENTITY; AND OTR, AN OHIO
GENERAL PARTNERSHIP,

Respondents.

No. 44887

ORDER DISMISSING APPEALS

On July 25, 2005, appellant filed a "Notice to Nevada Supreme Court of Negotiations Pending for Dismissal of Appeal" in each of these appeals. These documents were intended to notify this court "that the parties are in pending negotiations for the voluntary dismissal" of each of these appeals. Appellant further stated that the notices were filed to explain why appellant would not file the opening brief by its due date.



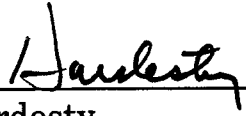
This court entered an order consolidating these appeals on August 1, 2005. On August 4, 2005, appellant filed a "Notice to Nevada Supreme Court of Status of Negotiations Pending for Dismissal of Appeal" in these consolidated appeals. This second notice informed the court that the parties were "in continued negotiations for the voluntary dismissal" of these appeals. According to appellant, this second notice was also provided to this court because the opening brief was overdue.

It appears that appellant intended the notices filed on July 25, 2005, and August 4, 2005, to extend the time to file the opening brief. While it is imperative that parties communicate with this court when a brief or other required document is not going to be filed by its due date, this court's appellate rules do not contemplate a "notice" as the proper way to accomplish this. Instead, appellant should have filed a motion to extend the time to file the opening brief, with the pending settlement negotiations as support for the motion. See NRAP 27 (an application for relief shall be made by filing a motion); NRAP 31(a)(1) (governing motions to extend time to file briefs). However, pursuant to our August 1, 2005, order, the opening brief was not due until August 11, 2005, and the parties filed a stipulation to dismiss these consolidated appeals on that date.

Accordingly, we will take no action on the notices filed on July 25, 2005, and August 4, 2005.

On August 11, 2005, the parties filed an "Agreement and Request to Dismiss Appeals Pursuant to Rule 42(b) of Nevada Rules of Appellate Procedure." The agreement states that "Appellant . . . has determined that it wishes to voluntarily dismiss the Consolidated Appeals in their entirety" and that "Appellant requests, and Respondents agree, that the Court should promptly enter an order dismissing the Consolidated appeals, with each party to bear their own costs." Pursuant to the stipulation of the parties, and cause appearing, these consolidated appeals are dismissed. The parties shall bear their own costs and attorney fees. NRAP 42(b).¹

It is so ORDERED.²


_____, J.
Maupin

_____, J.
Gibbons

_____, J.
Hardesty

¹Accordingly, the cost bonds posted for these appeals pursuant to NRAP 7 shall be returned to appellant's counsel.

²The portion of our August 1, 2005, order directing court reporter Kit MacDonald to produce transcripts is hereby vacated.

cc: Hon. Norman C. Robison, Senior Judge
William F. Buchanan, Settlement Judge
Jones Vargas/Las Vegas
Post Kirby Noonan & Sweat LLP
Kummer Kaempfer Bonner & Renshaw/Las Vegas
Luce Forward Hamilton & Scripps, LLC
Clark County Clerk
Kit MacDonald, Court Reporter