

IN THE SUPREME COURT OF THE STATE OF NEVADA

HARVEY COHEN, AN INDIVIDUAL,  
Appellant/Cross-  
Respondent,

No. 45247

vs.

MIRAGE RESORTS INC., A NEVADA  
CORPORATION; MIRAGE  
ACQUISITION SUB, INC., A NEVADA  
CORPORATION; JEFFREY PAUL  
JACOBS, AN INDIVIDUAL; LOUIS  
SPOSATO, AN INDIVIDUAL; JAMES  
SCIBELLI, AN INDIVIDUAL; FORREST  
WOODWARD, AN INDIVIDUAL; AVIS  
P. JANSEN, AN INDIVIDUAL; JACOBS  
ENTERTAINMENT, NEVADA, INC., A  
NEVADA CORPORATION; AND  
DIVERSIFIED OPPORTUNITIES  
GROUP, LTD., AN OHIO LIMITED  
LIABILITY COMPANY,

Respondents/Cross-  
Appellants.

**FILED**

APR 11 2006

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

ORDER DISMISSING APPEAL AND CROSS-APPEAL AND  
REMANDING TO THE DISTRICT COURT

This is an appeal and cross-appeal from the district court's orders as follows: (1) November 10, 2003, "Order Granting Motion to Certify Class and Confirming Class Representative," (2) November 22, 2004, "Order Denying Defendants' Motion to Decertify Class," (3) April 11, 2005, "Order Granting Defendants' Motion for Summary Judgment," (4) May 19, 2005, "Order Granting in Part and Denying in Part Plaintiff's Motion for Order to Show Cause Why Boardwalk Casino, Inc., Should Not Be Held [in] Contempt," and (5) July 14, 2005, "Order Denying Plaintiff's Motion to Retax Costs, In Part, and Awarding Defendants' Costs and Disbursements." Eighth Judicial District Court, Clark County; Sally L. Loehrer, Judge.

On January 23, 2006, the settlement judge filed a report indicating that the parties had agreed to a settlement of this appeal and cross-appeal. In the report, the settlement judge indicated that the settlement reached by the parties required an order of remand to the district court. Accordingly, on January 27, 2006, we directed the parties to file a stipulation or motion to dismiss this appeal and cross-appeal and requesting this court to remand the matter to the district court, or to otherwise inform this court of the status of this appeal within 30 days. To date, the parties have not responded to our order or otherwise communicated with this court. Accordingly, cause appearing, we dismiss this appeal and cross-appeal as abandoned. Further, this matter is remanded to the district court to conduct appropriate proceedings, if any, to alter, amend, or vacate its order or judgment as necessary for the parties to fulfill the terms of their settlement agreement. In the event the district court declines to grant the requested relief, the parties may file a motion to reinstate this appeal and cross-appeal.

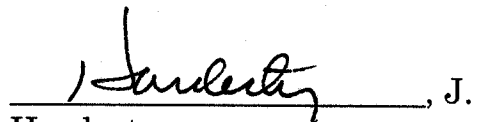
It is so ORDERED.



Maupin



Gibbons



Hardesty

cc: Hon. Sally L. Loehrer, District Judge  
Howard Roitman, Settlement Judge  
Berger & Montague, P.C.  
Harrison Kemp & Jones, LLP  
Schreck Brignone/Las Vegas  
Clark County Clerk