

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN RE: KITEC FITTING LITIGATION,

No. 52047

IPEX, INC.; AND IPEX USA LLC,
Petitioners,

vs.

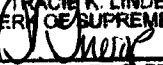
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF CLARK, AND
THE HONORABLE TIMOTHY C.
WILLIAMS, DISTRICT JUDGE,
Respondents,

and

ERIC W. QUINTERRO; TRACIE L.
QUINTERRO; CHARLES PANUSIS;
LADYBETH PANUSIS; RAUL GARCIA;
BRENDA GARCIA; STEPHEN INFERRERA;
SHEILA INFERRERA; TOD KOZLOWSKI;
VINCENT BELLASSAI; ARLENE
BELLASSAI; DONALD R. SMITH; BETTY J.
SMITH; BRANDON G. MILLER; JOSEPH
FRANZE; REENA FRANZE; BENJAMIN
LUM; STATE FARM FIRE AND CASUALTY
COMPANY; CLASSIC PLUMBING, INC.;
BANKERS INSURANCE CO.; FARMERS
INSURANCE COMPANY, INC.; AND AMCO
INSURANCE COMPANY,
Real Parties in Interest.

FILED

NOV 23 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DENYING PETITION

This original petition for a writ of mandamus seeks discretionary writ review of a district court order granting real parties in

interest leave to amend their complaint in consolidated constructional defect class actions.

The petition was filed on July 16, 2008, and this court directed an answer. After three extensions of time and two motions to stay this matter, the answer was finally filed on January 7, 2009.

Because the parties had advised the court of their then-ongoing settlement negotiations, this court ordered them to file a joint status report regarding any progress with respect to either settling this matter or proceeding with it on the merits. In response, the parties jointly filed another motion to hold this writ proceeding in abeyance. According to the parties' motion, they settled among themselves, and the district court entered an order approving the settlement, determining that the parties settled in good faith, and correspondingly dismissing real parties in interest's claims against petitioners. The parties' joint motion also noted, however, that other parties remaining in the district court action had appealed the district court's order to this court, see In Re: Kitec Fitting Litigation, Docket No. 53660, challenging the district court's good-faith-settlement determination. This raised the prospect, the parties argued, of this dispute being revived, depending on this court's resolution of the appeal challenging the district court's good-faith-settlement determination. Accordingly, they requested that we hold this writ proceeding in abeyance, pending this court's disposition of the appeal in Docket No. 53660. We granted this request on May 15, 2009. Thus, in response to the parties' joint request that we do so, this proceeding was held in abeyance until August 16, 2010, when the remittitur issued in Docket No. 53660, following this court's July 20, 2010, denial of rehearing

of this court's order dismissing that appeal on appellant's acknowledgment that the appeal was jurisdictionally defective.

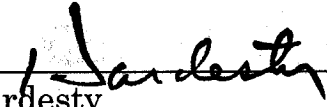
On disposing of the appeal in Docket No. 53660, this court entered an order in this writ proceeding directing the parties to show cause why this writ proceeding should not be dismissed as moot given the parties' previous acknowledgment that they have settled the action below as between themselves and that the district court has entered an order approving the settlement agreement and correspondingly dismissing real parties in interest's claims against petitioners. See University Sys. v. Nevadans for Sound Gov't, 120 Nev. 712, 720, 100 P.3d 179, 186 (2004) (stating that "the duty of every judicial tribunal is to decide actual controversies by a judgment which can be carried into effect, and not to give opinions upon moot questions or abstract propositions, or to declare principles of law which cannot affect the matter in issue before it" (quoting NCAA v. University of Nevada, 97 Nev. 56, 57, 624 P.2d 10, 10 (1981))).


The parties have jointly responded to our show cause order, acknowledging that their settlement agreement renders this petition moot, but for a fourth time requesting that this proceeding be held in abeyance—this time, pending this court's resolution of the related matters in Docket Nos. 55599 and 55901. See In Re: Kitec Fitting Litigation, Docket No. 55599; In Re: Kitec Fitting Litigation, Docket No. 55901. We decline that request.

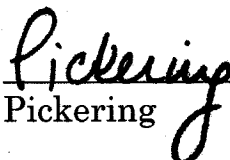
This matter has languished on this court's docket long enough. As the parties acknowledge in their response to this court's show cause order, no actual controversy regarding the issues raised herein currently

exists between the parties. Accordingly, we dismiss this petition without prejudice as raising matters that, by the parties' admission, are currently nonjusticiable.

It is so ORDERED.¹


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. Timothy C. Williams, District Judge
Lemons, Grundy & Eisenberg
Blalock & Qualey
Jolley Urga Wirth Woodbury & Standish
Kemp, Jones & Coulthard, LLP
Law Office of Lisa A. Taylor
Lynch, Hopper & Salzano, LLP
Springel & Fink
Nik V. Walters
Leland Eugene Backus
Eighth District Court Clerk

¹This dismissal is without prejudice to petitioners' right to file a writ petition renewing the issues raised in this matter if the parties' settlement agreement is undone.