

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSEPH ZIEMIANIN, INDIVIDUALLY;
ELIZABETH TERRIBLE,
INDIVIDUALLY; ANDREW E.
ROTHBART, INDIVIDUALLY; AND
LORENZO BALDASSARE, TRUSTEE
OF THE LORENZO BALDASSARE 2002
TRUST, INDIVIDUALLY,

Appellants,

vs.

HORIZON INVESTMENTS, INC., A
NEVADA CORPORATION; NEVADA
INSURANCE GUARANTY
ASSOCIATION (NIGA); A & A
ENTERPRISES, INC., D/B/A A & A
LANDSCAPING; LLO, INC., D/B/A
ACME ELECTRIC; ALCA
ENGINEERING & SURVEYING, INC.,
A NEVADA CORPORATION; BRADLEY
WINDOW CORPORATION, A NEVADA
CORPORATION; C & F
DISTRIBUTORS, INC., A UTAH
CORPORATION; CEDAR ROOFING,
INC., A NEVADA CORPORATION;
CENTRAL VALLEY INSULATION, A
NEVADA CORPORATION; CHARLIE
BROWN CONSTRUCTION COMPANY,
INC., A NEVADA CORPORATION;
CLASSIC DOOR & TRIM, INC., A
NEVADA CORPORATION;
HENDERSON FLOOR COVERINGS,
INC., D/B/A CLOUD CARPETS &
DRAPERIES, A NEVADA
CORPORATION; DESERT DRYWALL &
PAINTING, INC., A NEVADA
CORPORATION; DOW INDUSTRIES, A
NEVADA CORPORATION; ELECTRIC

No. 52405

FILED

JAN 2 1 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

CAL, INC., A NEVADA CORPORATION;
ELITE CONSTRUCTION COMPANY, A
NEVADA CORPORATION; EXECUTIVE
PLASTERING, INC., A NEVADA
CORPORATION; GARY G. DAY
CONSTRUCTION CO., INC., A
NEVADA CORPORATION; GIBSON
TILE, INC., D/B/A GIBSON TILE &
MARBLE COMPANY, A NEVADA
CORPORATION; INTERNATIONAL
MARBLE, INC., A NEVADA
CORPORATION; LAND-TECH, INC., A
NEVADA CORPORATION;
MENDENHALL SMITH STRUCTURAL
ENGINEERS, PROFESSIONAL, LLC, A
LIMITED LIABILITY COMPANY;
MESTAS ROOFING, INC., A NEVADA
CORPORATION; NICHOLS
CONSTRUCTION, INC., A NEVADA
CORPORATION; PETE WHITE
CONCRETE, INC., D/B/A WHITE
EAGLE CONCRETE, INC., A NEVADA
CORPORATION; PIONEER
PLUMBING, INC., A NEVADA
CORPORATION; PRECISION
DRYWALL & PAINTING, INC., A
NEVADA CORPORATION; QUALITY
MECHANICAL CONTRACTORS, INC.,
A NEVADA CORPORATION; SIERRA
AIR CONDITIONING, INC., A NEVADA
CORPORATION; STEWART &
SUNDELL CONCRETE, INC., A
NEVADA CORPORATION; VEGAS
GENERAL CONSTRUCTION, CO., A
NEVADA CORPORATION; VEGAS
LAMINATES, INC., A NEVADA
CORPORATION; V. WEST D/B/A
VERTEX WEST ROOFING; WERCO,
INC., A NEVADA CORPORATION;

WESTERN TECHNOLOGIES, INC., AN
ARIZONA CORPORATION;
WHOLESALE BUILDERS SUPPLY CO.,
INC., A NEVADA CORPORATION;
WILLMAN'S PLASTERING, INC., AN
ARIZONA CORPORATION; AND
WINSUPCO, INC., D/B/A WIN SUPPLY
COMPANY, A NEVADA
CORPORATION,

Respondents.

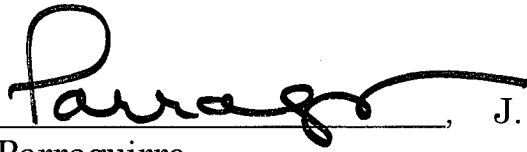
ORDER DISMISSING APPEAL

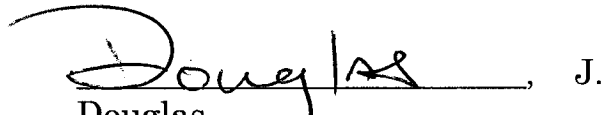
On December 24, 2008, this court entered an order directing appellants to show cause, by January 8, 2009, why this appeal should not be dismissed for lack of jurisdiction. Specifically, our order noted that this appeal arises from cases which were consolidated in the district court, and that one of the consolidated cases remains pending below. See Mallin v. Farmers Insurance Exchange, 106 Nev. 606, 797 P.2d 978 (1990) (holding that all claims against all parties in consolidated actions must be resolved before an action becomes appealable as a final judgment). Further, our order noted that the appeal may also be premature as it appeared a tolling motion remained pending below. This court may dismiss a premature appeal. See NRAP 4(a)(6).

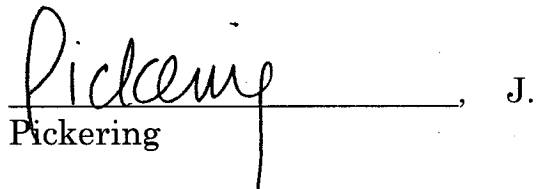
To date, appellants have not filed a response to our order or otherwise communicated with this court. We elect to treat appellants' failure to respond to our order to show cause as an admission that this court lacks jurisdiction over this appeal. Cf. King v. Cartlidge, 121 Nev. 926, 124 P.3d 1161 (2005) (stating that court has discretion to consider the failure to oppose a motion as an admission of merit and consent to grant

the motion). Accordingly, this appeal is hereby dismissed for lack of jurisdiction.

It is so ORDERED.


_____, J.
Parraguirre


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. Susan Johnson, District Judge
Jimmerson Hansen
A & A Enterprises, Inc.
Alca Engineering & Surveying
Bennion Clayson & Marias
Brady, Vorwerck, Ryder & Caspino
Bremer Whyte Brown & O'Meara, LLP
C & F Distributors
Carraway & Associates
Desert Drywall & Painting, Inc.
Donovan/Hatem LLP
Feldman Graf
Hurtik & Manke, LLC
International Marble, Inc
Land-Tech, Inc.
Lincoln, Gustafson & Cercos
Luh & Associates
McKay Law Firm Chtd.
Mestas Roofing, Inc.

Nevada Insurance Guaranty Association
Precision Drywall & Painting, Inc.
Prince & Keating, LLP
Sherman & Associates
Springel & Fink
Thagard, Reiss & Brown, LLP
V West
Vegas Laminates, Inc.
Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC
Wholesale Builders Supply Co., Inc.
Wilde Hansen, LLP
Willman's Plastering
Wolfe & Wyman LLP
Eighth District Court Clerk