

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN RE: KITEC FITTING LITIGATION,

No. 55599

RHODES DESIGN & DEVELOPMENT
CORPORATION, D/B/A RHODES HOMES;
AND MAJESTIC PLUMBING, INC.

Appellants,


vs.

IPEX USA LLC; IPEX, INC.; FERGUSON
ENTERPRISES, INC.; STANDARD
WHOLESALE SUPPLY COMPANY; TODD
PIPE & SUPPLY - LAS VEGAS, INC.; TRACIE
L. QUINTERRO; PAUL MESSINGSCHLAGER;
AND CANDY GOODMAN,

Respondents.

FILED

NOV 23 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order, certified as final pursuant to NRCP 54(b), granting a motion for a good faith settlement determination and dismissing class action claims against certain respondents. Eighth Judicial District Court, Clark County; Timothy C. Williams, Judge.

On September 1, 2010, this court entered an order concluding the NRAP 16 mandatory settlement conference and giving appellant Rhodes Design & Development Corp. 15 days from the order's date to file a motion or stipulation to dismiss this appeal, given Rhodes Design's indication that it would be dismissing the appeal. To date, however, Rhodes Design has failed to respond to this court's September 1 order. Additionally, while this appeal was proceeding through the NRAP 16 mandatory settlement conference program, appellant Majestic Plumbing, Inc., moved to dismiss the appeal on jurisdictional grounds. In light of

Rhodes Design's indication that this appeal would be dismissed and given that Majestic Plumbing moved to dismiss its own appeal,¹ we conclude that dismissal of this appeal, in its entirety, is appropriate. Accordingly, we

ORDER this appeal DISMISSED.²

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

¹Although respondents opposed Majestic Plumbing's motion to dismiss this appeal, an appellant is under no obligation to litigate an appeal and generally may withdraw its appeal at any time. See, e.g., Zerkowsky v. Zerkowsky, 131 So. 647, 648 (Miss. 1931) (noting that an appellant has no obligation to appeal a case, and thus, generally "has the right to dismiss his appeal"); Putnam Furniture Leasing Co., Inc. v. Borden, 539 A.2d 73, 74 (R.I. 1988) (recognizing that "if one has a right to take an appeal, it is [generally] to be assumed . . . that the appellant has a right to withdraw the appeal").

²The parties shall bear their own costs and attorney fees. NRAP 42(b).

cc: Hon. Timothy C. Williams, District Judge
Ara H. Shirinian, Settlement Judge
Lee, Hernandez, Brooks, Garofalo & Blake, APC
Sterling Law, LLC
Thagard, Reiss & Brown, LLP
Woodburn & Wedge
Gordon & Silver, Ltd.
Jampol, Zimet, Skane & Wilcox
Kemp, Jones & Coulthard, LLP
Lemons, Grundy & Eisenberg
Lincoln, Gustafson & Cercos
Lynch, Hopper & Salzano, LLP
Olson, Cannon, Gormley & Desruisseaux
Perry & Spann/Las Vegas
Eighth District Court Clerk