

IN THE SUPREME COURT OF THE STATE OF NEVADA

JESS ARNDELL CONSTRUCTION CO.,  
INC.,  
Appellant,  
vs.  
GEORGE O. HENDERSON AND CHERYL  
E. HENDERSON, TRUSTEES OF THE  
HENDERSON FAMILY TRUST; WILLIAM  
MCCUSKY AND IRENE MCCUSKY;  
WILLIAM W. TRIGERO AND JEANNE  
MACKAY, CO-TRUSTEES OF THE  
CLAYSON AND ELIZABETH TIGERO  
FAMILY TRUST AGREEMENT  
(DECEDENT'S TRUST); EDDIE  
VENTURACCI AND GLORIA  
VENTURACCI; RENO QUILICI AND  
GLORIA F. QUILICI, CO-TRUSTEES OF  
THE RENO AND GLORIA QUILICI  
TRUST AGREEMENT; AMILIO BELL  
AND CARMEN BELL, TRUSTEES OF  
THE BELL FAMILY TRUST  
AGREEMENT; GARY T. CANEPA AND  
LORI R. CANEPA, CO-TRUSTEES OF  
THE G & L TRUST AGREEMENT; LYNN  
WEEK AND JOYCE WEEK, CO-  
TRUSTEES OF THE LYNN AND JOYCE  
WEEK FAMILY TRUST AGREEMENT;  
MARIE J. DUNCAN; CALIFORNIA  
NATIONAL BANK CUSTODIAN FBO  
KEITH E. LOUWENAAR; PAMELA DORY  
TRUSS; ROBERT P. FELDER AND  
DESSIE K. FELDER; LAKEY BROTHERS  
GENERAL TIRE, INC.; DOUGLAS E.  
GLENN, TRUSTEE OF THE DOUGLAS E.  
GLENN SURVIVOR'S TRUST; SUSAN M.  
GLENN, TRUSTEE OF THE SUSAN M.  
GLENN TRUST; BARBARA M.  
HAMMOND, TRUSTEE OF THE CEDRIC  
M. HAMMOND FAMILY TRUST; CALVIN

No. 63629

FILED

APR 17 2015

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

R. MOFFITT AND CRAIG L. SHANK,  
TRUSTEES OF THE MOFFITT AND  
SHANK LTD. PROFIT SHARING PLAN;  
TACK NAKAMURA AND CORALEE  
NAKAMURA, CO-TRUSTEES OF THE  
TACK NAKAMURA FAMILY TRUST;  
JOHN DOYLE; ALICEANN DOYLE;  
CHARLES R. DRAKE, TRUSTEE OF THE  
C.R. DRAKE & SONS, INC., PROFIT  
SHARING PLAN; JERRY KRACAW AND  
DOROTHY KRACAW, CO-TRUSTEES OF  
THE JERRY E. KRACAW FAMILY  
TRUST; EDWIN W. BODILY AND IRMA  
BETH BODILY, CO-TRUSTEES UNDER  
THE BODILY LIVING TRUST  
AGREEMENT; C.B. BROWN CO., INC., A  
NEVADA CORPORATION; HARLAN  
HILES; JOHN B. TALLMAN AND IRENE  
TALLMAN, CO-TRUSTEES OF THE  
JOHN B. TALLMAN FAMILY TRUST;  
DONALD G. PETERS AND JESSELL J.  
PETERS, TRUSTEES OF THE SPARE  
TIME BOWLING CENTER, INC., PROFIT  
SHARING PLAN; ESTHER P. SLAGLE,  
TRUSTEE OF THE ESTHER SLAGLE  
1990 TRUST; GEORGE N. DELONG AND  
DANIELLE K. DELONG, TRUSTEES OF  
THE GEORGE DELONG  
CONSTRUCTION INC. PROFIT  
SHARING PLAN; DANIEL R. HETRICK  
AND GILBERTA L. HETRICK; BRUCE K.  
KENT, TRUSTEE OF THE IRA H. KENT  
FAMILY TRUST; BARBARA J. WILLARD;  
STANFORD J. COWLEY AND JEANNE A.  
COWLEY; FRED MILLER AND GAY  
LYNN MILLER; DEBRA ODETTE,  
TRUSTEE OF THE DEBRA ODETTE  
TRUST; JUDY DELONG, AS TRUSTEE  
OF DELONG RANCHES, INC.  
RESTATED PROFIT SHARING PLAN;  
JOSEPH GENE BAUM AND LOIS C.

BAUM, TRUSTEES OF THE GENE AND LOIS BAUM FAMILY TRUST; CALIFORNIA NATIONAL BANK CUSTODIAN FBO RONALD F. SEMENKO; PAULINE JOAN HALL FRIEDRICH AND JOHN TILTON FRIEDRICH, TRUSTEES OF THE PAULINE AND JOHN FRIEDRICH TRUST; RICHARD A. GRAHAM AND KATHLEEN E. GRAHAM; MARIE P. YORK, TRUSTEE OF THE MARIE P. YORK TRUST; DIAN WILLIS-PUTNAM, TRUSTEE OF THE DIAN WILLIS TRUST; ROLFE H. SCHWARTZ AND CATHERINE T. SCHWARTZ; MICHAEL E. RENCANZONE AND CHRISTINE RENCANZONE; DONALD G. KRACAW AND TERRI KRACAW, CO-TRUSTEES OF THE DONALD G. KRACAW FAMILY TRUST; KATHRYN E. NICHOLS, TRUSTEE OF THE NICHOLS FAMILY TRUST; JANICE E. SMITH; MARVIN B. HETRICK AND LARAY S. HETRICK, CO-TRUSTEE OF THE MARVIN B. HETRICK FAMILY TRUST; BONNIE LOUISE BELL; DONALD JONES AND ANN DARLENE JONES, CO-TRUSTEES OF THE DONALD AND ANN DARLENE JONES TRUST; LESLIE L. BELANGER AND VIRGINIA BELANGER, CO-TRUSTEES OF THE LESLIE L. BELANGER AND VIRGINIA BELANGER FAMILY TRUST; MARTIN J. LARRANETA; DONALD G. PETERS AND JESSELL J. PETERS, CO-TRUSTEES OF THE PETERS FAMILY TRUST; IRENE K. REEVES; TIMMONS F. BENGOCHEA; GARY A. ECHEVARRIA AND BRYN M. ECHEVARRIA, CO-TRUSTEES FOR THE GARY AND BRYN ECHEVARRIA FAMILY TRUST; ITALO G. VALLE, TRUSTEE OF THE VALLE

FAMILY TRUST; BARBARA J. KINGSLEY; NORMAN L. QUIGLEY AND NANCY QUIGLEY; DIANA LECUMBERRY, TRUSTEE OF THE DIANA LECUMBERRY TRUST; CARLENE A. MENDIETA, TRUSTEE OF THE CARLENE A. MENDIETA REVOCABLE LIVING TRUST; WALLACE R. BAUM, TRUSTEE OF THE RWB TRUST; ELIZABETH M. STALEY, TRUSTEE OF THE ELIZABETH M. STALEY TRUST; WARNER WHIPPLE, TRUSTEE OF THE WARNER WHIPPLE FAMILY TRUST; ROBERT A. HEGUY AND ELIZABETH A. MAW-HEGUY; EVERETT DEAN GUSTIN AND LOIS L. GUSTIN, TRUSTEES OF THE GUSTIN FAMILY TRUST; STEVE DORSA; IRENE JOY FULLENWIDER, AS SURVIVING GRANTOR UNDER THE JACK FULLENWIDER TRUST; JAMES T. JOHNSON AND CAROL J. JOHNSON, TRUSTEES OF THE JOHNSON FAMILY TRUST; DIANA S. CHRISTISON; WILLIAM A. DEAL AND AUDREY M. DEAL, TRUSTEES OF THE DEAL JOINT REVOCABLE TRUST AGREEMENT; WESLEY R. WEEK; ELMER R. ENTYRE AND MARY S. ENTYRE, TRUSTEES OF THE ELMER AND MARY S. ENTYRE TRUST; AND MARK COWLEY, JOINTLY AND SEVERALLY ALL AS SUCCESSORS IN INTEREST TO AND/OR ALTER EGOS OF SUNSET BLUFFS, LLC,  
Respondents.

ORDER OF AFFIRMANCE

This is an appeal from a district court order dismissing a breach of contract action. Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.

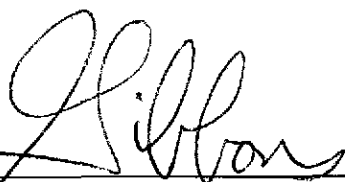
Respondents moved to dismiss appellant's action, arguing that it was an attempt to circumvent an earlier district court action dismissing appellant's claims under NRCP 41(e) with prejudice. The district court granted the motion and dismissed appellant's action. On appeal, appellant argues that NRCP 41(e)'s five-year deadline for bringing its claims to trial had not run in the previous district court action because the original property developer's bankruptcy proceeding included an automatic stay, precluding appellant from bring its cause of action against the developer to trial. Appellant did not appeal from the district court order dismissing the prior complaint with prejudice under NRCP 41(e) and did not challenge the district court's finding that the bankruptcy stay did not apply to toll the time to bring its action to trial. Appellant therefore may not now raise that challenge for the first time in this appeal. See, e.g., *Lighthouse v. Great W. Land & Cattle Corp.*, 88 Nev. 55, 493 P.2d 296 (1972) (concluding that an appellant cannot challenge an earlier NRCP 41(e) dismissal in a subsequent action when the dismissal of the earlier action was not appealed). Accordingly, we

ORDER the judgment of the district court AFFIRMED.



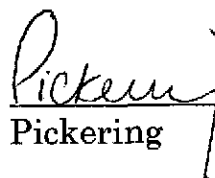
Saitta

, J.



Gibbons

, J.



Pickering

, J.

cc: Hon. Patrick Flanagan, District Judge  
Charles R. Kozak  
Early Sullivan Wright Gizer & McRae, LLP  
Washoe District Court Clerk