

IN THE SUPREME COURT OF THE STATE OF NEVADA

DARWIN SCHUETTE, INDIVIDUALLY;  
MARC FLOYD, INDIVIDUALLY; AND DIANA  
TODD, INDIVIDUALLY,

Appellants,

vs.

BEAZER HOMES HOLDINGS  
CORPORATION, A DELAWARE  
CORPORATION, AND BEAZER HOMES  
NEVADA, INC., A NEVADA CORPORATION,  
Respondents.

No. 41611

**FILED**

DEC 30 2004

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

BEAZER HOMES HOLDINGS  
CORPORATION, A DELAWARE  
CORPORATION; AND BEAZER HOMES  
NEVADA, INC., A NEVADA CORPORATION,  
Appellants,

vs.

DARWIN SCHUETTE, INDIVIDUALLY;  
MARC FLOYD, INDIVIDUALLY; AND DIANA  
TODD, INDIVIDUALLY,  
Respondents.

No. 41768

DARWIN SCHUETTE, INDIVIDUALLY;  
MARC FLOYD, INDIVIDUALLY; AND  
DIANNA TODD, INDIVIDUALLY,  
Appellant/Cross-Respondents

vs.

BEAZER HOMES HOLDINGS  
CORPORATION, A DELAWARE  
CORPORATION, AND BEAZER HOMES  
NEVADA, INC., A NEVADA CORPORATION,  
Respondents/Cross-Appellants.

No. 42691

ORDER ADMINISTRATIVELY CLOSING DOCKET NO. 42691  
AND RESOLVING PROCEDURAL MOTIONS IN  
DOCKET NOS. 41611 AND 41768

The consolidated appeals in Docket Nos. 41611 and 41768 challenge various interlocutory orders in a construction defect action. The appeal and cross-appeal in Docket No. 42691 challenge the final judgment in that action entered on January 9, 2004. On December 17, 2004, the clerk of this court filed the notices of appeal that had initially been filed in Docket No. 42691 in Docket Nos. 41611 and 41768.

As briefing on the final judgment and the interlocutory orders has transpired exclusively in Docket Nos. 41611 and 41768, we conclude that the interests of judicial economy are served by administratively closing Docket No. 42691 and considering the parties' challenges to the final judgment and interlocutory orders in the context of Docket Nos. 41611 and 41768. Accordingly, we direct the clerk of this court to administratively close Docket No. 42691.<sup>1</sup>

The closure of Docket No. 42691 renders the motion filed by Darwin Schuette, Marc Floyd and Dianna Todd (Schuette) to consolidate Docket Nos. 41611 and 41768 with Docket No. 42691 moot; therefore, we deny the motion. We also deny as moot Schuette's "Motion to Retain Current Docket Status and Briefing Schedule," which essentially questioned whether the notices of appeal from the final judgment should have been filed in Docket Nos. 41611 and 41768, rather than Docket No. 42691.

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<sup>1</sup>The request for transcripts filed in Docket No. 42691 need not be transferred to Docket Nos. 41611 and 41786, as the request was already made in those Docket Nos.

Various procedural motions currently pending in Docket Nos. 41611 and 41768 are not affected, however, by the administrative closure of Docket No. 42691.

Amicus Briefs

On April 5, 2004, Southern Nevada Homebuilders, Inc. and Nevada Subcontractors Association (collectively SNH) filed a motion for leave to file an amicus brief. SNH states that it represents the interests of builders and developers and proposes to address this case's impact on the building industry, the economy and housing prices. On April 29, 2004, the Nevada Trial Lawyers Association (NTLA) also sought leave to file an amicus brief. NTLA states that it represents homeowners' interests and that it wishes to address this case's impact upon numerous groups.

Participation by amicus curiae is appropriate when a party is not represented competently, when the amicus has an interest in some other case that may be affected by the present case, or when the amicus has unique information or perspective that can aid the court beyond the assistance that the parties' lawyers are able to provide.<sup>2</sup> We conclude that SNH and NTLA have satisfied this standard. Accordingly, we grant the motions for leave to participate as amici curiae, and we direct the clerk of this court to file SNH's and NTLA's briefs, provisionally received on April 2, 2004, and April 29, 2004, respectively.

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<sup>2</sup>See NRAP 29; Ryan v. Commodity Futures Trading Comm'n, 125 F.3d 1062, 1063 (7th Cir. 1997).

### Extensions of Time and Page Limits

On January 22, February 23, March 25, April 23, June 1, July 6 and August 4, 2004, Beazer Homes Holdings Corporation and Beazer Homes Nevada, Inc., (collectively Beazer) moved this court to extend various briefing deadlines in Docket Nos. 41611 and 41768. The primary justification for extension recited in Beazer's motions was the complexity and importance of the issues and the length of trial (over three months). Schuette filed three oppositions to the extension motions, characterizing the motions as "an abusive pattern" of "eleventh-hour" and "twelfth-hour delays which should not be countenanced." Schuette requested "an appropriate sanction."

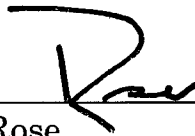
We agree that Beazer has filed an excessive number of extension motions. We also recognize, however, that these appeals involve novel issues and a lengthy appellate record. Consequently, we deny Schuette's motion for sanctions, and we grant Beazer's motions for extensions of time.<sup>3</sup> We also grant Beazer's motions to exceed NRAP 28(g)'s thirty page limit in the opening and reply brief in Docket No. 41768; and we grant Schuette's motion to exceed the page limit in its answering brief in Docket No. 41768. Accordingly, the clerk of this court shall file the appendix and Beazer's opening brief, provisionally received in Docket No. 41768 on March 29 and March 31, 2004, respectively; Beazer's answering brief, provisionally received in Docket No. 41611 on May 3, 2004; and Beazer's reply brief, provisionally received in Docket No.

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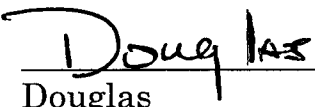
<sup>3</sup>Beazer's first extension motion was granted by this court on January 22, 2004.

41768 on September 7, 2004. The clerk shall also file Schuette's reply brief and supplemental appendix, provisionally received in Docket No. 41611 on May 21, 2004; and Schuette's answering brief and appendix, provisionally received in Docket No. 41768 on May 3, 2004.

It is so ORDERED.

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Douglas

cc: Sandra L. Pomrenze, Settlement Judge  
Robert C. Maddox & Associates  
Beckley Singleton, Chtd./Las Vegas  
Koeller Nebeker Carlson & Haluck, LLP  
Bradley Drendel & Jeanney  
Jones Vargas/Las Vegas