

**DISMISS; and Opinion Filed October 7, 2013.**



**In The  
Court of Appeals  
Fifth District of Texas at Dallas**

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**No. 05-13-00893-CV**

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**DOUBLE DIAMOND DELAWARE, INC., DOUBLE DIAMOND, INC., WHITE BLUFF CLUB CORP., NATIONAL RESORT MANAGEMENT CO., R. MICHAEL WARD, FRED CURRAN, GEORGE COLLINS, LARRY GROPPPEL, RANDY GRACY, CLARK WILLINGHAM, DONALD FRITZ, MILT BERGMAN, WHITE BLUFF PROPERTY OWNERS ASSOCIATION, INC., Appellants**

**V.**

**JOHN AND CATHY WALKINSHAW, ET AL,<sup>1</sup> Appellees**

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**On Appeal from the 191st Judicial District Court  
Dallas County, Texas  
Trial Court Cause No. DC-11-10333-J**

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**MEMORANDUM OPINION**  
Before Justices Moseley, Lang-Miers, and Lewis  
Opinion by Justice Lang-Miers

Pursuant to appellant rule 28.2 and former civil practice and remedies code section 51.014(d),<sup>2</sup> appellants bring this agreed interlocutory appeal from the trial court's general order granting appellees' motion for partial summary judgment and denying appellants' motion for partial summary judgment. *See* Act of May 27, 2005, 79<sup>th</sup> Leg. R.S., ch. 1051, § 1, 2005 Tex. Gen. Laws 3512, 3513 (applying to lawsuit filed on or after September 1, 2005), *amended by* Act

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<sup>1</sup> There are over one thousand appellees in this case. A complete listing of the names of the appellees can be found in the judgment.

<sup>2</sup> This case was filed before September 1, 2011, therefore appellate rule 28.2 and former section 51.014(d) apply. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 51.014(d) note (West Supp. 2012); TEX. R. APP. P. 28.

of May 25, 2011, 82d Leg., ch. 203, § 3.01, 2011 Tex. Gen. Laws 758, 759 (current version at TEX. CIV. PRAC. & REM. CODE ANN. § 51.014 (West Supp. 2012)); TEX. R. APP. P. 28.2. At issue is the assessment of mandatory property owners' association (POA) fees for golf-course maintenance and "a food and beverage program." Concluding we lack jurisdiction, we dismiss the appeal.

### **BACKGROUND**

Double Diamond, Inc. is a real estate development company that owns the White Bluff Resort at Lake Whitney, Texas. Appellees are current or former property owners in White Bluff subject to the disputed POA fees. Asserting, among other complaints, that the assessment of these fees was illegal, appellees, individually and derivatively as POA members, sued Double Diamond, its subsidiaries, the POA, and POA board members. Among the causes of action appellees alleged were "common law fraud/fraudulent inducement," fraud in real estate, and breach of fiduciary duty. Additionally, appellees sought temporary and permanent injunctions prohibiting further assessment of the fees and a declaratory judgment that the fees were illegal and improper under the POA governing documents; Texas property and business organization codes; federal and state tax codes; and, restrictive covenant law.

Both parties moved for partial summary judgment, each raising multiple grounds. Specifically, appellees sought judgment in their favor on their claim for injunctive relief and each of the theories presented in their declaratory judgment action. Appellants also sought partial summary judgment as to each of appellees' theories for declaratory judgment and argued that appellees' claims with respect to the fees being illegal and improper under the tax codes and the property code were not ripe, appellees did not have standing to raise them, and appellees could not bring their claims derivatively on behalf of the POA.

Without stating a basis, the trial court granted appellees' motion and denied appellants' motion. In its order, the trial court also granted the parties permission to appeal under appellate rule 28.2 and former civil practice and remedies code section 51.014. Specifically, the order recited as follows:

The Court finds that permitting interlocutory appeal is warranted because:

1. There is a controlling question of law as to which there is a substantial ground for difference of opinion[;]
2. An immediate appeal from the order may materially advance the ultimate termination of the litigation; and
3. The parties agree to an appeal of the order.

### **JURISDICTION**

Our jurisdiction over this appeal depends on whether (1) the trial court's interlocutory order involves "a controlling question of law as to which there is a substantial ground for difference of opinion," and (2) "an immediate appeal . . . [may] materially advance the ultimate termination of the litigation." See TEX. R. APP. P.28.2; *State Fair of Tex. v. Iron Mountain Info Mgmt., Inc.*, 299 S.W.3d 261, 262 (Tex. App.—Dallas 2009, no pet.) (interpreting former rule 51.014(d)). Inherent in these jurisdictional requirements is that the trial court make a substantive ruling on the specific legal question presented on appeal. See *Bank of N.Y. Mellon v. Guzman*, 390 S.W.3d 593, 597 n.2 (Tex. App.—Dallas 2012, no pet.) (citing *Colonial Cnty. Mut. Ins. Co. v. Amaya*, 372 S.W.3d 308, 310 (Tex. App.—Dallas 2012, no pet.); *State Fair*, 299 S.W.3d at 264)); *Gulley v. State Farm Lloyds*, 350 S.W.3d 204, 207 (Tex. App.—San Antonio 2011, no pet.). Because generally our jurisdiction is limited to appeals from final judgments and orders, we strictly construe any statutes, such as former section 51.014, that allow appeals from interlocutory orders. See *Guzman*, 390 S.W.3d at 596; *State Fair*, 299 S.W.3d at 262-63.

In a letter brief filed at our direction, appellants identify four “controlling questions” which generally track the grounds asserted in the competing summary judgment motions. Arguing this case “is one of first impression” and the “parties’ opinion regarding the controlling issues of law are both divergent and fundamental,” appellants assert the parties’ arguments “present inter alia novel theories regarding burden of proof, enforceability of covenants (personal or real), statutory construction or construction of governance documents, and standing.” Appellants maintain that “because these differences of opinions cut to the very core of [a]ppellees’ claims, they must be viewed as ‘substantial.’” Citing our opinion in *State Fair of Texas v. Iron Mountain Information Management*, appellees respond, in part, that because the trial court did not state the basis for its ruling, the appeal does not meet the strict requirements of former section 51.014(d). *See State Fair*, 299 S.W.3d at 262, 264. We agree with appellees.

The appealed order is silent as to the basis for the trial court’s order, and nothing in the record shows the trial court made a substantive ruling on any of the legal issues presented to us. Although the trial court generally ruled on the competing partial summary judgment motions, it did not rule on the substantive legal issues presented to it. *See Gulley*, 350 S.W.3d at 207. Without a substantive ruling by the trial court, we have no jurisdiction. *See Guzman*, 390 S.W.3d at 597-98. Accordingly, we dismiss the appeal.

/Elizabeth Lang-Miers/  
ELIZABETH LANG-MIERS  
JUSTICE

130893F.P05



**Court of Appeals  
Fifth District of Texas at Dallas**

**JUDGMENT**

DOUBLE DIAMOND DELAWARE, INC.,  
DOUBLE DIAMOND, INC., WHITE  
BLUFF CLUB CORP., NATIONAL  
RESORT MANAGEMENT CO., R.  
MICHAEL WARD, FRED CURRAN,  
GEORGE COLLINS, LARRY GROPPPEL,  
RANDY GRACY, CLARK  
WILLINGHAM, DONALD FRITZ, MILT  
BERGMAN AND WHITE BLUFF  
PROPERTY OWNERS ASSOCIATION,  
INC., Appellants

On Appeal from the 191st Judicial District  
Court, Dallas County, Texas  
Trial Court Cause No. DC-11-10333-J.  
Opinion delivered by Justice Lang-Miers.  
Justices Moseley and Lewis participating.

No. 05-13-00893-CV      V.

JOHN WALKINSHAW AND CATHY  
WALKINSHAW, MARK MATHISEN,  
JAMES DRAKE, GLENN CHRISTOPHER,  
GERALDINE CLARK, STEPHEN  
CLARK, WEBSTER CLARKE, TERRY  
WADE, JAMES WALDROP AND KATHY  
WALDROP, ROBERT WALKER, KELLY  
PARKS CORSO, KEVIN COX, RICHARD  
CROW, ERIC CUMMINGS, LEROY  
CURRY, REDDY DASARI, JAMES  
DAVENPORT AND SHARON  
DAVENPORT, SCOTT DAVENPORT,  
ARGUSTA DAVIS, DOUGLAS DAVIS,  
SAM AINTABLIAN, RIMA MELILEYAN,  
VICTOR ALARCON AND ROSA  
ALARCON, JAMES ALDRIDGE, PETE

ALVARADO, ADRIANA ALVAREZ,  
DARRELL AMSDEN, WYATT  
ANDREWS, GARY ANTHONY AND  
RUBY ANTHONY, GARY AQUILINA  
AND PAMELA AQUILINA, DEBORAH  
ARNOLD, JAMES RUMAGE, BETTY  
ARNSTINE, LARRY ATKINS AND  
KAREN ATKINS, JIMMY AUGUSTINO,  
ELIZABETH ABEL, ANAS ARNOUS,  
GLORIA ARRIAGA, BUDDY ABLES,  
JOSE ACHONDO, MIKE ADAMS,  
ARMANDO AGUILAR, PAUL GASSNER,  
SCOTT GAST, BERNARD GEIGER AND  
SANDRA GEIGER, EUGENE GENDEL  
AND ANNA GENDEL, EDWARD  
GERKEN, DOUGLAS GLASPELL,  
MICKEY GLASS, EDWARD MICHAEL  
GOLUBIC, RAMON GOMEZ, GINA  
GONZALES, LANNY GOUGE, JOHN  
GOUGH, BEVERLY GRAHAM, MARVIN  
D. GRAHAM, JR., MONTY GRAHAM,  
LAN TRAN, MELVIN TRAYLOR, DAVID  
TUCKER, IDA UNGER, JAMES USSERY,  
CHARLES VANDERWOUD,  
FRANCISCO VAZQUEZ, MARCIA  
VERHAGEN AND ROBERT VERHAGEN,  
DAN BANKS, ROBERT BARRE, ULI  
BAUMERT AND BRENDA BAUMERT,  
DONALD BEAL, ROBERT BENNETT  
AND SHERI BENNETT, TERRENCE  
BENTON, SOKOL BIBERAJ, ROBERT  
BIRTH AND NANCY BIRTH, A.  
ROBERT BONNEFIL, RICHARD  
BONNER, DEBBIE BRASHEAR,  
WILLIAM BRAY, ROY BREAKER AND  
JOYCE BREAKER, SHERIDAN  
BREWER, JESSIE BRICE, JOE BRITO,  
ELSIE SPENCER, CARL BRITTON AND  
LYNETTE BRITTON, MICHAEL  
BROOKS, GILBERT BROWN, MICO  
BROWN, ALAN BRYANT, MICHAEL  
BURGESS AND CHARLOTTE BURGESS,

KIRBY BUSH, BILL CAMPBELL,  
LARRY CAMPBELL, RALPH CAMPOS,  
ALFREDO CANLAS, DEREK CARILLO,  
RONALD CAWTHON, DOUGLAS  
CHALMERS, PAUL CHANDLER,  
SHIHAO CHARLES CHANG,  
ADALBERTO CHAVEZ, ABDEL  
CHEHADE AND RAMZIE CHEHADE,  
MIRIAM CHIAVERINI, DANIEL DAWE  
AND DEBORAH DAWE, DANIEL DE  
ORIAN, JEFF DEARMAN, RICHARD  
DEMAREST, JOSEPH DEPALMA, ALICE  
DEROUX, RUEL DIXON, DAVID DOST,  
MICHAEL EDWARDS, ARTHUR  
FRAUSTO, VALORIS FORSYTHE,  
ROBERT KELLY AND PEGGY KELLY,  
STEVE DREILING, CARROLL  
EDWARDS, GLENN EISELIN, ELDOR  
EISEN AND DOROTHY EISEN,  
RICARDO ELIZALDA, TOMMY RAY  
ELLISON, DEAN ELYOSSRI, CHRIS  
ENSENBERGER, BOBBY EVANS,  
DANIEL EVANS, LINDA FAIR AND  
GARY FAIR, GARY FARMER, CHARLES  
FIKE, CURTIS FINK, FARRELL FISHER,  
ELIZABETH JANE FLEMING, WALTER  
FOSTER, LINDA FOUNTAINE,  
THOMPSON FOY, FELIX FRANCIS,  
ROBERT FINDLEY, KENT FREDERICK,  
DAVID FREMDER, JERRY FULLER,  
WILLIAM GALLE, RAMON GARDNER,  
RAYMOND GARDNER AND SHARON  
GARDNER, PERRY GARMAN,  
WILLIAM GRAHAM, MARK  
GREENLEE, CHIQUITA GRICE, JAMES  
GROSS, JACOB GROVE, KENNETH  
GRUNEWALD, MARK HALL AND  
CATHERINE HALL, DENIS M. HANLEY,  
DENNIS E. HARMS, RUTH HARRIS, JAY  
HARVEY, FRANCES HATTER, TRACY  
HAYNES, TONY HELTON, CHARLES  
HENDERSON, DWAYNE HENDERSON,

JAMES HENICKE, DAVID HENSON,  
LEROY HERNANDEZ, JANET HERT  
AND JERRY HERT, MARC HINKLEY,  
WILLIAM HOLDER, ELIZABETH  
MERRELL, ROBERT DELORIS PHELAN,  
RALPH PHILLIPS, WAYNE PILIP,  
ROBERT POLLOCK, NANDOO  
POORAN, EFRAIN PORTALES, CRAIG  
PORTZ, LARRY PRATHER, ANDREW  
PRESTWOOD, CHARLES PROWANT  
AND MOLLIE SUE PROWANT, JOHN  
QUARELLO, RICHARD RADYKOWSKI,  
LEA REAMER, FLOYD REECE, DONNA  
REED, KEVIN REMBACKI AND ALICIA  
REMBACKI, B.R. RESPESS, GLENN  
RICHARDSON, JENNIFER  
HALLIBURTON ROBERTS, MICKEY  
ROBERTS, ROGER ROBERTSON AND  
LINDA ROBERTSON, DEBBIE ROCKET,  
ROBERT ROGERS, HERMAN ROJO,  
DARYL ROLLINGS, ARTHUR  
ROSENBERG, CHARLES ROSS, STEVEN  
ROSSI, DAVID ROWE AND ROBIN  
ROWE, STEVEN RUMER, ROSA RUS  
THROUGH, REGINALD RUTLEDGE  
AND BETTY RUTLEDGE, GARY RYAN,  
LARRY SALISBURY, JAMES SANCHEZ,  
CARY SANDE AND NANCY SANDE,  
CLARENCE SANDLES, DANIEL  
SATURN, DANIEL SCOTT, ALBERT  
SELMERON, MARY ANN SHARP,  
DARLENE ANN SHAW, JULIA  
SHEEHAN, RICHARD SHIMER AND  
CAROL SHIMER, JOHNNIE  
SHOWALTER, DANIEL SIDES, JUDITH  
SINDER, RON SINENI AND ANNE  
SINENI, MIKE SKRABACZ AND KAREN  
SKRABACZ, JEFF SLADECEK AND  
MILISSA SLADECEK, JOE SLADECEK  
AND JANIS SLADECEK, ROBERT  
SLADECEK, LESLIE SMITH, PHILIP  
SMITH, JUDY SMITHEY, CHARLES



SPEARS, RONALD SPEARS, JOHN  
STEPHENS, WARREN STEWARD,  
CHARLES STONE, LOUIS STORM AND  
BARBARA STORM, BILL STOWE,  
MATTHEW STUART, HENRY  
SUMMERFORD, STEPHEN SUMMERS,  
DANIEL SUTTON AND INEZ SUTTON,  
DENNIS SVAB AND ROSITA SVAB,  
BELVA SWANNER, ROBIN TALLEY  
AND BRENDA TALLEY, KENNETH  
TAYLOR AND JOYCE TAYLOR,  
DELORIS TERRELL, THELMA LONG,  
DONALD TELLER, THEODORA  
THOMAS, SALVADOR TORRES, JULIA  
WENSEL AS GUARDIAN FOR DORIS R  
THOMASON, JAMES TOLBERT,  
SHARON WALRATH, LIANGHSIUNG  
WANG AND HSIUYUN WANG, JEFF  
WANG, RICK WARDEN, MICHAEL  
WASSON AND PAULA WASSON,  
TERRY WATTS AND MARNI WATTS,  
CHRISTOPHER WEIDES, GENE WEST,  
RITA WHATLEY, MARY WHEELOCK,  
N. CAROLYN WICKER, VIRGIL  
WIESNER, TIM WIGGINS, JIMMY  
WILLIAMS, KELLY WILLIAMS AND  
SHAREE WILLIAMS, DUANE  
WILLMAN AND TINA WILLMAN,  
GREGORY K. WOOD, MICHAEL  
WORCESTER, JOAN WRIGHT, KEVIN  
WRIGHT, FRANKE WYNNE, TIM  
YOUNG AND STEPHANIE YOUNG,  
JOHN ZIMMER AND JOY ZIMMER,  
WES ZMOLIK, BRUCE JOINER AND  
JUDY JOINER, CLARICE JONES,  
THOMAS EVERETT JONES, ROBERT  
MORRIS JUDD, SANFORD JUDKINS,  
MADAN KAUSHAL, KIRK JOINER AND  
JAMIE KEEL, ARTHUR KELLEY,  
ROBERT KELLEY AND PEGGY  
KELLEY, RICHARD KELLY, MURARI  
KHANNA, CARLA KIDD, HERSHEL

KIME, DAMON KING, KEVIN  
KOESTNER, JOHN LANG, MARCUS  
LAWRENCE, MAX LEE, JOHN LEMLEY,  
RAY LEWIS AND PATRICIA LEWIS,  
RONALD LEWIS, PAM LIEF, VENUS M.  
LILLYBRIDGE, VENUS J.  
LILLYBRIDGE, ANTHONY ABRANTES,  
ANTHONY ACOSTA, LUIS GARY  
ACOSTA, TRISHA ADAMS, WILLIAM  
K. ADAMS, CONSUELA MEDRANO  
ALEJANDRO, ANTHONY W. ALLEN  
AND SHARLEEN M. ALLEN, CHARLES  
G. ALLEN, DARIN ANDERSON, TODD  
ANDERSON AND KATERINA  
ANDERSON, MARCIA ARCHIBALD,  
MICHAEL ARCHULETA, STEVE  
ASBILL, ADELA Q. ASHA, JESUSA  
ASHBY AND JOHN ASHBY, JERRY H.  
BAILEY, ANTHONY BALCHUNAS,  
JERRY BALLARD, WILFREDO  
BATISTA, CEASAR BELSER AND LISA  
BELSER, CYNTHIA L. BERRY, JANICE  
A. BERRY, KELLY R. BEYER, DAVIN  
BICKFORD, TIM BISHOP, BERNIE  
BLACK, KENNETH R. BLANKENSHIP  
AND MARY SUE BLANKENSHIP,  
DIDIER BOIVIN, CELAH BOLDON, III,  
MARVIN BONNER, JR., HARVEY A.  
BRADEN, DAVID BRANHAM, DONALD  
W. BREI, BRAD BROWN, DAVID G.  
BROWN, FRED E. BROWN, JAMES C.  
BUEHRIG AND JEROLENE BUEHRIG,  
DARKO & PIEDAD BURMAZ REV.  
TRUST, ROBERT C. BURNS, CHARLES  
H. BUSEY, MARISSA CALICA, BRYCE  
K CAMERON, JEFFREY A. CARTER,  
RALPH E. CASEY, ALBERTO  
CASTILLO, LLOYD CHARLES AND  
WENDI CHARLES, ANTHONY CHEN,  
CARLOS E. CHILDS, DENNIS CIHACEK,  
KATHY CIKANEK, KENNETH L.  
CLARK, DWAYNE CLEVELAND AND

AMY J. CLEVELAND, BRUCE  
COLTHARP, ERLENE COLVIN,  
WILLIAM B. COPELAND AND CLAIRE  
ANN COPELAND, JOANNE B. CORBET,  
DAVID CORONA, GILBERT COTA,  
ROBERT CRANSHAW AND JUDITH  
CRANSHAW, JAMES RAY CREED,  
MARIKO CROSS, JAMES CURRAN,  
JOHN DALFONSO, ALTON W. DANIEL,  
HENRY DASARI, WILLIAM H DEAN,  
MARTIN DEEVER AND DEBORAH  
DEEVER, DIPAK B. DESAI, ANA M.  
DIAZ AND SANCHEZ DIAZ AND  
ANGEL L. DIAZ, CANDIS (ESSEX)  
DICKEY, STEVEN DILLON, MAR  
DIMES, LARRY DIX, PEGGY  
DOLEZALIK, BENNY DOLLAR, JOHN P.  
DONLIN, RAYMOND DUCHSCHERER,  
MARTIN W. DUNBAR, ROBERT E.  
DUNIGAN, HYL A EMERY, ROGER  
ENGLAND, RICHARD C ENRIQUEZ,  
JOHN B ERICKSON, HAZEL ESKRIDGE,  
DAVID FAIN, DAVID O. FALLERT,  
CHRIS FARISH, HOMA FERDOWSI,  
VITO FERRARA, THOMAS W.  
FERRELL, SR., JEREMY FLEMING, H.  
RAY FODDER, PAT FOGERSON,  
CHARLSY FORD, PATRICK FOSTER  
AND LINDA FOSTER, FAYE  
FREDERICK AND DON YOST, C. BUCK  
FULLER AND YVONNE FULLER,  
ANTONIA GALINDO, MARIA J GARCIA  
AND CHRISTOPHER GARCIA, JAMES  
GARNER AND MARLA GARNER,  
RODNEY K. GASKILL, PAUL S.  
GEATER, DAVID A. GILMORE, SR.,  
GERMAN M. GIRON, ANDREW GLEN  
AND CAROL GLEN, ROBERT GLENN,  
MARGARITO GONZALEZ, MARK S  
GONZALEZ, RICHARD GONZALEZ,  
RUDOLPH GONZALEZ AND MARIA  
GONZALEZ, PAUL GOOLSBY,

TIMOTHY GOOLSBY, MARTHA  
GORDON, CAROLE GRAFF, BOB J.  
GRAHAM, PHILLIP GRAVATT, GAIL B.  
GRAY, RICHARD GRIFFIN AND HELEN  
GRIFFIN, JULIA GROMATZKY AND  
KAREN D. PECK, GEORGE C.  
GROMECKI, PETER GROSSERHODE,  
APOLINAR GUEVARRA, JR., KARL R.  
GUTZKE, ENRIQUE GUZMAN,  
NADEEM A. HADDAD, ERNEST SCOTT  
HAILE, KEITH HALL, RONALD C.  
HALVERSON, MICHAEL HANCOCK,  
GERALD A. HARE, JOHN G. HARVEY,  
GERALD E. HATFIELD, SAM HATTON  
AND BEVERLY HATTON, RIKKI  
HEMEL, GERALD HENDERSON AND  
DONNA HENDERSON, JULIAN  
HERNANDEZ AND APRIL  
HERNANDEZ, WILLIAM S. HERRIDGE,  
JAMES D. HILGER, ANGELA HILLIN,  
HEROLD HINDS AND JACQUELINE  
HINDS, JOHN C. HOBSON, ASBERRY  
HODGE AND PATRICIA HODGE,  
DARYL HOELSCHER, JOAN L.  
HOLBROOK, JOSEPH M. HOLLEY,  
WADE HOOVER, LISA C. HOUDEK,  
GARY M. HOUSE, CAROLYN HOWARD  
AND ROBERT HOWARD, KIRK HULL,  
WYNNE HUNKLER AND PAULA  
HUNKLER, TIMOTHY HUTCHENS,  
DAVID W. HUTTON, MICHAEL  
HUTYRA, MARY ICE, WILLIAM C.  
JACKSON, JAY JAGIELLO AND  
ANDRZEJ JAGIELLO, JOHN R. JARMA,  
DANIEL L. JAMORA, EDWARD J.  
JASEK AND MARY K. JASEK, BRENT  
JONES, BRIAN JONES, GLENN E. JONES  
AND JENNIFER JONES, JERRY L.  
JORDAN AND VIVIAN D JORDAN,  
JERRY L. JOYNER, JEFF KAUFMAN,  
JOHN H. KELLY AND MARGUERITE  
KELLY, D. W. KIEFF, BOBBY L. KING,

ALAN KIRBY AND HELEN KIRBY,  
CYNTHIA D. KIRK, MARK KOON,  
BALDEV KRISHAN, EDWARD R. LANE  
AND PENNY LANE, AMBER LAPP AND  
RONALD LAPP, JASON LASH,  
ANTHONY LEDESMA, CAROLYN E.  
LEDFORD, JEFF LEMLEY, GRENVILLE  
LEWIS, IV, ARTHUR LEYHE AND  
SHARON LEYHE, JERRY LITTMAN,  
BOBBY G LIVELY, RODOLFO "RUDY"  
LOPEZ, THOMAS R. MABRY, JR.,  
STEVEN J. MACDONALD, IRVIN R.  
MACK, KIRAN MAHAJAN, HAROLD  
MAPES, DAVID N MARINELLI, BRUCE  
MARLIN, L. DAVID MARSCHALL,  
EARL D. MARTIN AND BEULAH  
MARTIN, JOHN E. MARTIN, MICHAEL  
MARTIN AND SHARON MARTIN,  
ELISA MARTINEZ, WILLIAM MASON  
AND MARYANN MASON, PAUL H.  
MASSEY, PATRICK H. MATHESON,  
DAVID MCCOLLOUGH, RANDY  
MCCOLLUM AND KAREN  
MCCOLLUM, J. B. MCCRUM, II,  
ROBERT L. MCCULLOUGH, BRUCE  
MCCORMACK, MICHAEL T. MCCULLY  
AND PAMELA MCCULLY, BILLIE SUE  
MCDONALD, GLEN MCDONALD,  
JAMES MCDONALD, JOHN K.  
MCDONALD, CARROL SNOW  
STRICKER MCDUGAL, LISA MCGEE,  
LISA R MCLEAN, PATRICIA MCMANN,  
PHILLIP MCNEEL, ROSE MELO  
REVOCABLE TRUST, PEDRO HUERTA  
MENDOZA, GERARD METZLER,  
DONALD L. MODE, FRANK  
MONTGOMERY, MOONS  
ENTERPRISES INC., BILL MORRIS, T. J.  
MOXON, GENEVA MULL, MICHAEL  
MULLINS, HENRY MURRAY, WILLIAM  
J. NAUGHTON, STEPHEN NAVICKY,  
TIA KIM NGO, BENJAMIN NOGUERAS,

MARK NOLEN, PHIL R. NORMAN,  
JULIE A. NORTON, JOE NOVAK, JOE M.  
OLDHAM, DAVID R. OLGUIN, PHYLLIS  
(MRS. ROLAND) OLSON, REX  
ONDRACEK, GUSTAVO ARACELI  
ORTIZ, JOHN OSBORNE AND  
BEVERLY OSBORNE, ROSA OVALLE,  
VIRGIE PAJARILLO, DAVID PANNONE,  
DIANA PAPMEDER, DENNIS PARKS  
AND ROXANNE PARKS, ROY PAXTON,  
BARBARA PEEBLES, CHARLES E.  
PEEL, DAVID E. PETERS, JAMES  
PETERS, ALBIN L. PICHA, RILEY G.  
PIERCE, BRUCE A. PLASKET AND  
CLAUDIA V. PLASKET, WILIAM A.  
POMEROY, SAMUEL PRAGER,  
SATHYA PRASAD, NICANOR  
PROFETA, STACY PRUORN, GERALD  
PRYNE AND WENDY PRYNE, RUFINO  
N. QUICHO, JR., JANICE K. RAGLAND,  
RICHARD RAGSDALE AND NINA  
RAGSDALE, DAVID RAINES, LARRY  
RAMPENTHAL AND JULIE A.  
RAMPENTHAL, ROBERT J. RAY,  
ARTHUR J. REINKING, MALCOLM D.  
REX, RUDOLF REYES, CHARLES C.  
RHODES, LELAND D. RIDLING, KENT  
ROBBINS AND SUSAN ROBBINS, JOHN  
A. ROBERTS, III, LOUIS E.  
ROBICHAUX, ARMANDO N. ROCHA,  
EDWARD RODEHEAVER, STEDROY  
RODNEY, ANTONIO RODRIGUEZ,  
PAMELA RODRIGUEZ, JAMES ROSE  
AND MARILYN ROSE, JOSEPH ROSS  
AND LINDA ROSS, MARGARET A.  
RUIZ, RONNIE RUSHING AND SHEILA  
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FRANCES SATHER, MARK A.  
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ANNABETH LEE SCHUCH, STACI  
SCOTT, RALPH SEARS AND  
MARGARET SEARS, STEFAN  
SELECKY, CHRIS SELL, CHERRIE  
SELMAN, DAVE SHARMA AND  
SHASHI SHARMA, TOMMY LEON  
SHAW, LAURIE SHELLEY, KEITH A  
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AND MARY WHITVER, LARRY

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BARTOLOWITS, ROY A. BASA AND  
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BARBARA A. COKER, ROBERT  
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DANDOY AND LINDA DANDOY,



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AND SONIA DELEON, ROBERT  
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AND DEBRA FLATT, ELOY FLOREZ  
AND PEGGY FLOREZ, STEPHEN R.  
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A. HILL, JOHN HINCHMAN, TAMI  
HOGAN, ROBERT HOLLEMAN,  
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HOLLEY, IRA G. HOOD TRUST C/O  
HELEN HOOD, BOB W. HORTON,  
RUDOLF HOUDTZAGERS AND  
MARIANNE HOUDTZAGERS, PHILLIP  
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HUNTINGFORD, THOMAS HYMAN  
AND JANICE HYMAN, JORGE IBARRA,  
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GARY JOHANSEN AND GEORGIANA  
JOHANSEN, GARY JOHNSON AND  
CAROL JOHNSON, FRANCES M.  
JOHNSON, JEFF JONES, RICHAEAL M.  
JONES, CATHY JOSEPH, DAVID  
KALISKI, TERRY KERR AND  
BARBARA KERR, ANTHONY  
CHADWICK KESTLER, SABRA KHAN  
AND MOHAMED KHALID, ABDUL M.  
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MCCORKLE, BRUCE MCCORMACK,  
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MCDONALD, MICHAEL E. MEAD,  
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MITCHELL, CATHERINE S. MOLAVI,  
JOHN MONTGOMERY AND CAROLYN  
MONTGOMERY, RANDALL MOORE,  
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MOULDER, ROBERT MUNSON III,

JOEY MURTHIL, BRADY NELSON,  
WARREN D. NICHOLS AND MAUREEN  
Q. NICHOLS, RICKY L. NOBLE,  
RAYMOND NOTTINGHAM, JR.,  
RICHARD W. DNEAL, JAMES E.  
OLIVER, LEROY OLIVER AND LILLIE  
R. OLIVER, OLSON LIVING TRUST C/O  
GEORGE OLSON AND CAROL OLSON,  
JAMES L. OWENS, H. WAYNE  
OWSLEY, LESLIE PAIS, DONALD R.  
PATTERSON AND MARY LU  
PATTERSON, TANYA PAYNE, JAMES  
STEVEN PEACOCK, AUSTIN  
PEMPSELL, BOBBY PESCHEL,  
RICHARD C. PETERS, VALERIE  
PETERSON, JAMES PHELAN, RANDY  
POLAK AND CHARLES P. POLAK, JR.,  
JOSLYN V. PORTMANN, ROSA  
POTTER, VAL V. PRATHER, MARK  
PRINCE, DOMINIC C. QUARTIER, 1993  
RAMBAJAN TRUST, ANTHONY N. AND  
CARMELITA D. RAMBAJAN  
TRUSTEES, DAVID RAMSEY,  
MICHAEL E. REITER, SAM REYNOLDS,  
ROBERT RHINE, PAUL W. RICHARDS,  
DON RIDENOUR, CHRIS RIFFE,  
WILLIAM RISK, TOMMY RITTER AND  
SUSAN GOLDEN, RON ROBINSON,  
GUSTAVO RODRIGUEZ, RICHARD  
ROMAN, MICHAEL E. ROPER,  
MICHAEL C. ROWAN, MICHAEL R.  
RUCKMAN, JULIETE SATCHELL,  
MARVIN SAUNDERS, CRAIG  
SCHACHERER, GREGORY C.  
SCHAECHER, JEFF SCHMUCKER,  
BARBARA SCHREIB, RONALD  
SCHULZE, LEWIS SEALES AND  
CHARLOTTE SEALES, JAMES SEARS,  
WAYNE SIBLEY, ERVIN SIEMONEIT  
AND BARBARA SIEMONEIT, JACK  
SIMMONS, GURJEET SINGH,  
GEOFFREY SLOMA, JOHN L. SMITH,

MARIA A. SNELL, DORIS SPANGLER,  
ROYCE A. SPARKS AND ANA M.  
SPARKS, JOHN R. SPEER, DAVID P.  
STAPP, LARRY B. STEVENSON, DAVID  
STEWART, ELMER SUMMERS,  
MARVIN SWAIN, WILLIAM F. TAYLOR  
III, KERRY THERWHANGER, EULA  
THOMAS, SANDRA GREENE  
THOMPSON AND FERNANDO  
THOMPSON, ROSA L. TORO AND  
RAFAEL MONTALV, LUANN B.  
TUCKER, MICHAEL URESTI, RENE  
VICUNA, DOMINGO VILLAFANA,  
DELFINA VILLARREAL, GAIL  
VOELCKER, LARRY VUNCANNON,  
MARILU WALKER AND WILLIAM  
WALKER, JR., MICHAEL H. WALLACE,  
PHIL WALLIN, DAVID WALLS,  
MICHAEL WALSH, DOUG WALTHER,  
RISSIE WALTON, JOHN WARREN AND  
LAURA WARREN, RANDY  
WATTENWORTH, RUSSELL N.  
WEILER, S. SCOTT WEIMER, ALLAN P  
WELCH, ROD L. WELLS, EUPHEMIA  
WERNLI, GLORIA WEST, JOHN R.  
WHITE, CLIFTON WHITING, GEORGIA  
S. WIGINTON, DANIEL WILLIAMS AND  
AMBER WILLIAMS, N. DOUG  
WILLIAMS, LARRY R. WILSON AND  
WENDI L. WILSON, STEPHEN I.  
WINARICK, RODNEY SCOTT WINGER,  
JAY E. WINTERS, DICK WOODWARD  
AND TERIL WOODWARD, TOLBERT H.  
WORLEY, JR., KEN YAKO, DWAYNE  
YAMBRA, DAVID A. YOCUM,  
MICHAEL G. YOUNG, SIMON YUAN  
AND DILI YUAN, ROSIE ZAIZAR,  
RAYMOND ZAMARIPPA AND  
VIRGINIA L. ZAMARIPPA, WILLIAM L.  
ZILLMAN, JOHN ZUCHA, TROY  
ANDREWS, TRINA HALL, KELLY A.  
CRANE, WILLIAM DORSEY AND

LINDA DORSEY, MICHELLE  
MCMANUS, MICHAEL F. MILLER,  
LAURA RODRIGUEZ, CHRIS SPROLES,  
KEVIN M WALCZYK, DIANA WILSON,  
WESLEY ZMOLIK, LARRY BROWN,  
RODNEY CASTLE AND ACIA CASTLE,  
ANTHONY DARWIN, FRANCES AND  
LYNDA KELLEY JOHNSON, BRET  
OLTJEN AND ANGELA OLTJEN,  
MICHAEL E. REITER, LAURA  
RODRIGUEZ, AND CHRIS SPROLES,  
Appellees

In accordance with this Court's opinion of this date, we **DISMISS** the appeal.  
We **ORDER** that each party bear its own costs of this interlocutory appeal.

Judgment entered this 7th day of October, 2013.

/Elizabeth Lang-Miers/

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ELIZABETH LANG-MIERS

JUSTICE