

DISMISS; and Opinion Filed October 7, 2013.



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

No. 05-13-00893-CV

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

V.

JOHN AND CATHY WALKINSHAW, ET AL,¹ Appellees

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

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),² 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, 79th 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*

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

² 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

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**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 GROPPEL,
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 VANDERWOUDE,
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. RESPESSE, 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 DEAVER AND DEBORAH
DEAVER, 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, HYLA 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 MCDOUGAL, 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
ONDRAZEK, 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
RUSHING, STEPHEN V. RUSSELL,
WILBERTO SAN LUIS, JOE V.
SANCHEZ, STEVEN SANDERS, ALAN
DEAN SANNER, JERRY SATHER AND
FRANCES SATHER, MARK A.
SCHAFER, BRENDA W. SCHERTZ,

KENNETH SCHOEN, LEE SCHUCH AND
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
SHIVELY, VICTORIA SHOEMAKER,
MICHAEL SIEGEL, HOSHIAR SINGH,
DEBORAH D. SMITH AND DEBORAH
A. DORR, MIKE E. SMITH, ROGER K.
SMITH, GARY N. SNOW,
CHRISTOPHER J. SOANES, ADESH
SOODEEN, RANDY SPARKS, ELEANOR
W. STANDEFER, JEANNINE STARR,
MELISSA STEELE AND ALAN STEELE,
BART STEFFEN, GORDON STEGER,
ROBERT E. STEPHENS, JR. RANDY
STEWART, TERRENCE I. TELLIGMAN,
ALEXANDER TELLO, PAMELA
TERRELL, BARRY THOMBS, AMY
TINDOY, GREGORY S. TONIAN,
ANGELA RENEE TRUJILLO, ROBERT R.
TULEY, ROBERT D. TURECHEK AND
KAREN K. TURECHEK, DANNY
TURRENTINE, MICHAEL VANCE AND
NANCY VANCE, JOANNA COOPER
VANDERPOOL, DAVID VANDIVER,
TIM VANLARE, JERRY VAUGHN, JOE
VEACH, NELSON R. VILLALOBOS,
BLAKE VOGLER, JIMMIE J. WADE,
FRED I. WAGNER, MICKEY WALKER,
RICHARD WALKER, MARY A.
WALLACE, PEGGY WARD, H. ROGER
WARWICK, JIM WATSON, MICHAEL F.
WEATHERLY, DARREN WEIRICH,
KERRY WELCH AND MARIS WELCH,
TIMOTHY L. WELCH, JAMES B.
WELLING, JANICE WENTWORTH,
GEORGE WHEELER, FRANK WHITVER
AND MARY WHITVER, LARRY

WILLIAMS, NEVIL WILLIAMSON,
JEFFREY A. WILSON, JEFFREY S.
WOLDER, FRANCES R. WOLF,
STEPHEN L. WOOD, DEBRA DAVIS
WOODS, ROBERT E. WRIGHT AND
SHARON S. WRIGHT, GREG WYNN,
DAVID YACKER, PEIJING YANG,
MARNA YERIGAN, JOHN YEVCAK,
MICK YOUNG AND VALERIE YOUNG,
ROLAND YOUNG, MAYEZ ZEINE, JOEL
C. ZIMMERMANN, JOSE ABELLA AND
GEMMA I. ABELLA, SERGIO M.
AGUIRRE AND ELSA R. AGUIRRE,
PEGGY ALLEN, JOSE H. ARDON, ROSA
ARMIJOS AND ANTONIO ARMIJOS,
RUSSELL BACK, ROBERT & SANDRA
BAKER FAMILY TRUST, FRANK
BALKE, THOMAS BARNES, CATHY
BARTOLOWITS AND JOE
BARTOLOWITS, ROY A. BASA AND
LORI BASA, KYLE BECKER, JAKLIN
BENJEMIN, B. DANIEL
BERGENHAGEN, DARLENE BESHEAR,
PAT A. BLAKELY, CHARLOTTE A.
BOOTH, FRED BOWLDEN, A. J.
BOWMAN, STERLING BOWMAN,
MICHAEL H. BRAUN, LARRY BROWN,
ROBERT L. BROWN, ERNIE BROWN,
TUAN BUI, RITA B. BURNETT, JANET
MCWHORTER CAOUETTE, JOSEPH V.
CARROCCIA, LARRY CARVER, ELLIE
NELIDA CHAPPEL TRUST, PAMELA S.
CHELETTE, SCOTT CHESHIRE, SANG
CHEL CHUNG, PAUL CLAMPITT,
JEFFREY B. CLEARY, SCOTT A.
COBERN, RONALD B. COKER AND
BARBARA A. COKER, ROBERT
COMEAU, DAVID CONE, JOSE
CORTES, HENRY CRAWLEY III,
MARTIN L. CRISSEY, CALVIN O.
CROSBY, STEFANO D'AMICO, GARY
DANDOY AND LINDA DANDOY,

HENRY C. DAVIS, ROBERT GLENN
DAVIS, CLAUDE S. DEAN, JEFFREY
DEAN, LEE J. DEGROOT, LEVI DELEON
AND SONIA DELEON, ROBERT
DEVERNA, ROSELIS DIAZ, GARY
DOOLEY AND KATHY DOOLEY, JEFF
DOSSETT, ELKE B. DROZD-WILLIAMS,
EDWARD W. DURHAM, DALE EATON,
STEWART M. EDINGER, TERRY
EHRHARDT, BILL ELLIS, CYNTHIA
ENGELHARDT, JAMES L. ERBY,
AILLEN JOY ESCOLAR, LARRY D.
ESTES, BUTCH EUSTICE,
EXCELLENCE CUSTOM HOMES, LLC,
ROBERT FAGARAGAN AND
JOANALYN FAGARAGAN, STEVE
FEHMEL, BOB FEIDLER, JOSEPH &
PENNI FEIL, HARRY N. FINDOR,
RICHARD M. FISHER, RICHARD FLATT
AND DEBRA FLATT, ELOY FLOREZ
AND PEGGY FLOREZ, STEPHEN R.
FOXX, SCOTT FRANKS, KEVIN
FREUND, DAHLIA J. C. FULGENCE,
EMMETT FUNDERBURK, BOBBY LEE
GERMANY, JAY GIMPLE, BERNARD A.
GOBAR, JR., KIM JAMES GORUM,
TIMOTHY GOTTLIEBER, NEIL R. GOVE,
SANDRA GRAHAM, GILBERT
GRANADO, GORDON K. GREEN,
CARMEN A. GREEN, W. E. GUINN,
ESTER GULTOM, FRANK A. HABERL,
MICHAEL R. HALL, T. COLLIN
HAMPTON-KELLY, DONNA HANCOCK,
PAULA HANDRUP, ODIE L. HARRIS
JR., OLLIE E. HARTGROVES JR.,
BERNIE R. HARTIS, MATTHEW
HAYDEN, DEBBIE HAYS, STEVEN
HEIFETZ, JERRY HELTON, ISRAEL
HERNANDEZ, JESUS HERRERA, DORIS
A. HILL, JOHN HINCHMAN, TAMI
HOGAN, ROBERT HOLLEMAN,
CHARLSEY L. HOLLER, JAMES

HOLLEY, IRA G. HOOD TRUST C/O
HELEN HOOD, BOB W. HORTON,
RUDOLF HOUDTZAGERS AND
MARIANNE HOUDTZAGERS, PHILLIP
L. HOULTON, SR., SHAWNE
HUNTINGFORD, THOMAS HYMAN
AND JANICE HYMAN, JORGE IBARRA,
ROBERT WAYNE INZER, B. R. ISRAEL,
JOE W. IVIE, TOMMIE HOPE JACKSON,
JOHN R. JARMA, ROBIN JENTZEN,
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.
KHAN AND HUMA J. KHAN, JAMES
KILGORE AND DEBRA KILGORE,
THERESA KING AND DAVID L. KING,
JR., DONALD R. KNIGHT, CHESTER
KOWALSKI, KENTON KRAFT, ARTHUR
R. KRULL, JOSEPH K. LAYTON, JOHN
P. LEE, TERRY R. LEE, DAVID P.
LEWIS, MICHAEL LOBMEYER, JAMES
E. LOCK, DANIEL LOPEZ, WESLEY T.
LOWERY, GAIL A. MADISON,
MATTHEW S. MARTIN AND KELLY A.
MARTIN, ALEJANDRO MAURICIO,
MICHELE MCCAA, CARL R.
MCCORKLE, BRUCE MCCORMACK,
DONALD MCCRACKIN, VICKIE
MCDONALD, MICHAEL E. MEAD,
BOYD L. MELBOURNE, DARRELL D.
MILIAN, JOHN MITCHELL AND JUDY
MITCHELL, CATHERINE S. MOLAVI,
JOHN MONTGOMERY AND CAROLYN
MONTGOMERY, RANDALL MOORE,
TONY MORRIS, DAVID R. MOSES, JEFF
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
STEWARD, 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 ZAMARISSA AND
VIRGINIA L. ZAMARISSA, 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/

ELIZABETH LANG-MIERS
JUSTICE