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IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed  
Dec 27 2011 08:25 a.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

PRINCIPAL INVESTMENTS, INC.,  
dba RAPID CASH, GRANITE  
FINANCIAL SERVICES, INC., dba  
RAPID CASH, FMMR  
INVESTMENTS, INC., dba RAPID  
CASH, PRIME GROUP, INC., dba  
RAPID CASH, AND ADVANCE  
GROUP, INC., dba RAPID CASH,

Appellants

v.

CASANDRA HARRISON, EUGENE  
VARCADOS, CONCEPCION  
QUINTINO, AND MARY DUNGAN,  
individually and on behalf of all  
persons similarly situated,

Respondents

Case No.: 57625

(District Court Case #: A624982)

**MOTION TO DISMISS UNTIMELY APPEAL**

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Attorneys for Respondents

COME NOW Respondents, by and through their attorneys of record, Kemp, Jones & Coulthard, LLP. and Legal Aid Center of Southern Nevada, Inc., and hereby renew their motion to dismiss this untimely appeal by Appellants (“Rapid Cash”), because it was filed 23 days after the 30-day deadline for appeal expired. This motion was originally denied “without prejudice to respondents’ right to renew the motion upon completion of settlement proceedings.” Order Denying Motion to Dismiss/Settlement, filed February 4, 2011. As settlement efforts failed and briefing has been reinstated, Respondents now renew their motion to dismiss this untimely appeal.

## I.

### INTRODUCTION

This is a certified class action to set aside default judgments<sup>1</sup> obtained against customers of payday lender, Rapid Cash, through the despicable practice of “sewer service.” Eighth Judicial District Court Judge Elizabeth Gonzalez denied Rapid Cash’s Motion to Compel its due-process-deprived customers to arbitrate their claims primarily because she found that Rapid Cash’s filing of thousands of Justice Court lawsuits against its customers operated as a waiver of its rights to enforce the arbitration provision. The Order was entered on November 29, 2010, and Rapid Cash filed its own notice of entry of that order on December 3, 2010.<sup>2</sup>

Although Rapid Cash petitioned this Court for writ relief from the Order, this Court properly denied that relief and pointed out to Rapid Cash that orders denying arbitration are appealable under NRS 38.247(2). *See* Order Denying Petition for Writ of Mandamus at 1, attached hereto as Exhibit A. Only then did

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<sup>1</sup> And for other related relief.

<sup>2</sup> Rapid Cash filed a second motion to compel arbitration, which the district court also denied, and Rapid Cash has filed a separate appeal from that order. *See* Case No. 59837.

1 Rapid Cash file its Notice of Appeal – 23 days after the 30-day window for appeal  
2 closed. Rapid Cash’s appeal must be dismissed as untimely.

3 **II.**

4 **ARGUMENT**

5 Rule 4(a)(1) of the Nevada Rules of Appellate Procedure states, “In a civil  
6 case in which an appeal is permitted by law from a district court to the Supreme  
7 Court, the notice of appeal required by Rule 3 shall be filed with the clerk of the  
8 district court . . . no later than 30 days after the date that written notice of entry of  
9 the judgment or order appealed from is served.” Nev. R. App. Proc. 4(a)(1). “This  
10 requirement is jurisdictional; an untimely appeal may not be considered.” *Ross v.*  
11 *Giacomo*, 635 P.2d 298, 300 (Nev. 1981) (*ovr’d on other grounds in Winston*  
12 *Products Co. v. DeBoer*, 134 P.3d 726 (Nev. 2006)). Accordingly, when a notice  
13 of appeal is filed after the expiration of the 30 day period prescribed by NRAP 4,  
14 this court lacks jurisdiction to entertain the appeal. *See e.g Whitman v. Whitman*,  
15 840 P.2d 1232 (Nev. 1992); *Alvis v. State*, 660 P.2d 980 (Nev. 1983).

16 The Notice of Appeal filed by Rapid Cash on or about January 21, 2011,  
17 which purports to take appeal from the denial of Rapid Cash’s Motion to Compel  
18 Arbitration, is untimely and has failed to vest this Court with jurisdiction over  
19 Rapid Cash’s appeal. Because the order was e-filed on November 29, 2010 (*see*  
20 *Order*, attached to the untimely notice of appeal), the last day to file a timely  
21 notice of appeal was December 29, 2010. Rapid Cash’s Notice of Appeal was  
22 filed 23 days later. It is patently untimely and failed to vest jurisdiction in this  
23 Court. Accordingly, Rapid Cash’s appeal must be dismissed.

24 **III.**

25 **CONCLUSION**

26 Rapid Cash failed to timely take the steps required by the Rules of  
27 Appellate Procedure to perfect its right to appeal from the Order Denying Motion  
28 . . .

1 to Compel Arbitration. This untimely appeal must be dismissed.

2 DATED this 23rd day of December, 2011.

3  
4 Respectfully submitted by:

5 KEMP, JONES & COULTHARD, LLP

6  
7 /s/ Jennifer Dorsey  
8 J. RANDALL JONES, ESQ. (1927)  
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Attorneys for Respondents

14 **CERTIFICATE OF SERVICE**

15 I hereby certify that on the 23rd day of December, 2011, the foregoing **MOTION TO**  
16 **DISMISS UNTIMELY APPEAL** was served on the following person(s) by U.S. Mail:

17  
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28 *Counsel for Vilisia Coleman*

/s/ Angela Embrey  
An employee of Kemp, Jones & Coulthard

# EXHIBIT A

IN THE SUPREME COURT OF THE STATE OF NEVADA

PRINCIPAL INVESTMENTS, INC.  
D/B/A RAPID CASH; GRANITE  
FINANCIAL SERVICES, INC. D/B/A  
RAPID CASH; FMMR INVESTMENTS,  
INC. D/B/A RAPID CASH; PRIME  
GROUP, INC. D/B/A RAPID CASH; AND  
ADVANCE GROUP, INC. D/B/A RAPID  
CASH,  
Petitioners,  
vs.  
THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; AND THE HONORABLE  
ELIZABETH GOFF GONZALEZ,  
DISTRICT JUDGE,  
Respondents,  
and  
CASSANDRA HARRISON; EUGENE  
VARCADOS CONCEPCION QUINTINO;  
AND MARY DUNGAN,  
Real Parties in Interest.

No. 57371

**FILED**

**JAN 18 2011**

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

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

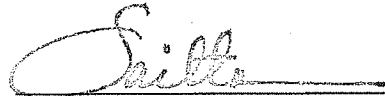
This original petition for a writ of mandamus challenges a district court order denying a motion to compel arbitration and to stay the district court proceedings.


Generally, an appeal is an adequate legal remedy precluding writ relief. See Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004). Since an order denying a motion to compel arbitration is appealable under NRS 38.247(1)(a), petitioners have an adequate legal remedy in the form of an appeal from the district court's order. See NRAP 4(a)(1) (stating that the notice of appeal must be filed within 30 days from

the date when written notice of entry of the order appealed from is served). Thus, we decline to consider this petition for extraordinary relief, NRAP 21(b); Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991), and we

ORDER the petition DENIED.

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

\_\_\_\_\_, J.  
Saitta

\_\_\_\_\_, J.  
Hardesty

cc: Hon. Elizabeth Goff Gonzalez, District Judge  
Ballard Spahr Andrews & Ingersoll, LLP  
Gordon & Silver, Ltd.  
Lewis & Roca, LLP/Las Vegas  
Kemp, Jones & Coulthard, LLP  
Legal Aid Center of Southern Nevada  
Eighth District Court Clerk