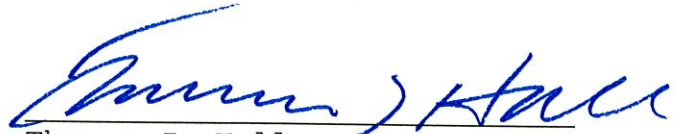


Electronically Filed
Oct 05 2011 02:29 p.m.
Supreme Court No. 59188
Tracie K. Lindeman
Clerk of Supreme Court
District Case No. CV0363

1 MITCHELL ("Real Parties"), by and through their counsel, THOMAS
2 J. HALL, ESQ., and pursuant to Rule 27 of the Nevada Rules of
3 Appellate Procedure, move to dismiss the Appeal filed herein.

4 DATED this 5th day of October, 2011.

5 LAW OFFICES OF THOMAS J. HALL

6
7 

8 Thomas J. Hall, Esq.
9 Nevada State Bar No. 675
10 305 South Arlington Avenue
11 Post Office Box 3948
12 Reno, Nevada 89505
13 Telephone: 775-348-7011
14 Facsimile: 775-348-7211

13 MEMORANDUM OF POINTS AND AUTHORITIES

14 A. The Order For Division Of Water Is Only In Effect Until
15 October 15, 2011.

16
17 The Order For Division Of Water was filed following a Second
18 Motion for Division of Water filed on March 29, 2011. The Court
19 entered its Order For Division of Water on April 15, 2011, for
20 the 2011 irrigation season which ends October 15, 2011. See, copy
21 of the Order entered April 15, 2011, which states as follows:

22 In the meantime, given that the 2011 irrigation
23 schedule has already begun, the schedule proposed by
24 the State Engineer, as attached to the Partial
25 Opposition, is to be implemented as of the date of this
26 Order by the State Engineer until the pending motion
has been fully briefed and can be further examined
further by the Court.

27 Under the Final Order of Determination, the 2011 irrigation
28 season runs from April 1, 2011 to October 15, 2011. See Order of

1 Determination, Period of Use, 1 App. 98-99. Therefore, the
2 Rotation Schedule ordered by the District Court will not be in
3 effect by the time the Court completes the briefing schedule.

4 **B. This Court Does Not Give Advisory Opinions.**

5 This Court is prohibited from giving advisory opinions. Nev.
6 Const. art. 6 § 4; Applebaum v. Applebaum, 97 Nev. 11, 12, 621
7 P.2d 1110 (1981) ("This court will not render advisory opinions
8 on moot or abstract questions. Decisions may be rendered only
9 where actual controversies exist."); State Engineer v. Truckee-
10 Carson Irrig., 116 Nev. 1024, 1032, 13 P.3d 395 (2008). This
11 appeal is the second appeal filed by the Bentleys in this matter
12 and raises the identical issue presented in their Appeal filed on
13 July 12, 2010. In the Order Dismissing Appeal dated January 18,
14 2011, this Court stated:
15

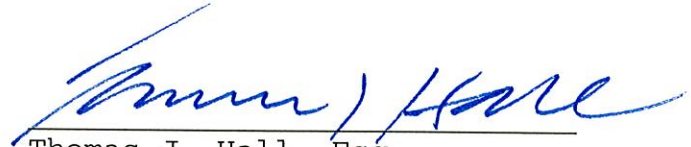
16
17 . . . the appeal is moot, as the challenged order
18 expired by its own terms at the end of the 2010
19 irrigation season, October 15, 2010. *Marquis & Aurbach*
20 *v. Dist. Ct.*, 122 Nev. 1147, 1162 n.32, 146 P.3d 1130,
21 1140 n.32 (2006) (citing *University of Nevada v.*
22 *Tarkanian*, 95 Nev. 389, 394, 594 P.2d 1159, 1162
23 (1979), for the proposition "that the duty of this
24 court is to resolve actual controversies and not to
25 opine on moot questions or abstract propositions").

26 The issues raised in this Appeal will be moot on October 15,
27 2011, at the end of the 2011 irrigation season, which is only ten
28 (10) days from the date of filing of this Motion. Consequently,
the Appeal filed by the Bentleys, used to perpetuate their
continuing efforts to keep this litigation as costly as possible,
should be dismissed.

1 Pursuant to NRS 239B.030, the undersigned affirms that the
2 preceding document does not contain the social security number of
3 any person.

4 Respectfully submitted this 5th day of October, 2011.
5

6 LAW OFFICES OF THOMAS J. HALL
7

8 
9

10 Thomas J. Hall, Esq.
11 Nevada State Bar No. 675
12 305 South Arlington Avenue
13 Post Office Box 3948
14 Reno, Nevada 89505
15 Telephone: 775-348-7011
16 Facsimile: 775-348-7211
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE BY MAIL

I certify that I am an employee of Thomas J. Hall, Esq., and that on this date, pursuant to NRAP 25(d), I placed in the U.S. Mail, postage prepaid, a true and correct copy of the foregoing document addressed to:

Judge David R. Gamble
Ninth Judicial District Court
Post Office Box 218
Minden, Nevada 89423

Thomas J. Scyphers
Kathleen M. Scyphers
1304 S. Aylesbury Court
Gardnerville, Nevada 89460

Michael L. Matuska, Esq.
Brooke, Shaw, Zumpft
Post Office Box 2860
Minden, Nevada 89423

Donald S. Forrester
Kristina M. Forrester
913 Sheridan Lane
Gardnerville, Nevada 89460

Bryan L. Stockton, Esq.
Deputy Attorney General
100 North Carson Street
Carson City, Nevada 89701

Ronald R. Mitchell
Ginger G. Mitchell
Post Office Box 5607
Stateline, Nevada 89449

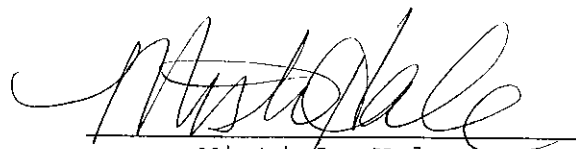
State of Nevada
Department of Conservation and
Natural Resources
Division of Water Resources
901 S. Stewart Street, Suite 2002
Carson City, Nevada 89701

Frank Scharo
Post Office Box 1225
Minden, Nevada 89423

Hall Ranches, LLC
Post Office Box 3948
Reno, Nevada 89505

Sheridan Equestrian Center, LLC
Glenn A. Roberson, Jr.
281 Tiger Wood Court
Gardnerville, Nevada 89460

DATED this 5th day of October, 2011.


Misti A. Hale

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

William E. Nork, Esq.
825 W. 12th Street
Reno, Nevada 89503.

Dated this 5th day of October, 2011.


Emily A. Heavrin