

**In the Supreme Court 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,

Appellants,

*vs.*

CASSANDRA HARRISON; EUGENE VARCADOS CONCEPION QUINTINO; and MARY DUNGAN, individually and on behalf of all persons similarly situated,

Respondent.

Electronically Filed  
Feb 01 2016 02:44 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

**MOTION TO STAY REMITTITUR PENDING PETITION  
TO U.S. SUPREME COURT FOR WRIT OF CERTIORARI**

Appellants ask this Court to stay the issuance of the remittitur while appellants apply for a writ of certiorari in the United States Supreme Court. NRAP 41(b)(3)(A). In the alternative, appellants ask this Court to enlarge the time for the issuance of the remittitur. NRAP 41(a)(1).

The rule permitting such a stay implicitly recognizes that “courts do not always agree, and the Supreme Court of the United States

might, of course, find merit in appellant’s position.” *Reynolds v. E. Clemens Horst Co.*, 172 P. 623, 624 (Cal. Ct. App. 1918).

That is especially plausible here, for two reasons. First, this Court acknowledged a split among the federal courts on the issue of who decides whether a party has waived the right to arbitrate.<sup>1</sup> Second, Justice Saitta in concurrence noted that case law in other jurisdictions “directly contradicts the majority’s holding” that appellants’ conduct waived the right to arbitrate here. Concurrence at 1. There is at least “some room for candid disputation” (*see Reynolds*, 172 P. at 624) whether this Court accurately interpreted the U.S. Supreme Court’s command to resolve any doubts in favor of finding no waiver. *See Moses H. Cone Mem’l Hosp. v. Mercury Constr. Corp.*, 460 U.S. 1, 24–25 (1983).

Unless the U.S. Supreme Court grants the petition, moreover, the stay under NRAP 41(b)(3) will be relatively short. *See NRAP*

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<sup>1</sup> *See* Opinion at 10–11 (citing the conflicting holdings of *Marie v. Allied Home Mortg. Corp.*, 402 F.3d 1, 14 (1st Cir. 2005), *Ehleiter v. Grapetree Shores, Inc.*, 482 F.3d 207, 221 (3d Cir. 2007), *Grigsby & Assocs., Inc. v. M Sec. Inv.*, 664 F.3d 1350, 1353 (11th Cir. 2011), and *Nat’l Am. Ins. Co. v. Transamerica Occidental Life Ins. Co.*, 328 F.3d 462, 466 (8th Cir. 2003)). *See also Cox v. Ocean View Hotel Corp.*, 533 F.3d 1114, 1127 (9th Cir. 2008) (O’Scannlain, J., dissenting) (reaching the opposite conclusion from this Court); *Woodland Ltd. P’ship v. Wulff*, 868 A.2d 860, 865 (D.C. 2005) (same).

41(b)(3)(D) (directing the clerk to “issue the remittitur immediately” upon denial of the petition). The district court has already stayed the case for the five years that the case was on appeal in this Court. (See Ex. A, Order Granting Stay, filed July 20, 2012.) Giving the U.S. Supreme Court time to rule on the petition will not harm respondents.

### CONCLUSION

For the foregoing reasons, this Court should stay the issuance of the remittitur.

Dated this 1st day of February, 2016.

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**EXHIBIT A**

**EXHIBIT A**

  
CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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; ADVANCE GROUP, INC.  
d/b/a RAPID CASH; MAURICE CARROLL,  
individually and d/b/a ON SCENE  
MEDIATIONS; VILISIA COLEMAN, and Does  
1 through X, inclusive,

Defendants.

Case No. A624982

Dept. No. XI

**ORDER (1) DENYING DISMISSAL, DECERTIFICATION  
AND ARBITRATION AND (2) GRANTING STAY PENDING APPEAL**

1. The Court DENIES the Rapid Cash Defendants' "Motion to Dismiss Claims Seeking Relief From Justice Court Judgments," which requested that the Court dismiss claims, decertify the class, and compel arbitration.

1           2.     The Court GRANTS a stay of all proceedings in this Court pending  
2 conclusion of the appeals in this matter currently pending in the Nevada Supreme  
3 Court.

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5           DATED this 19<sup>th</sup> day of July, 2012.

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7  
8           By  \_\_\_\_\_  
9           DISTRICT COURT JUDGE

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11  
12          Respectfully submitted by:

13          LEWIS AND ROCA LLP

14  
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**CERTIFICATE OF SERVICE**

I hereby certify that on February 1, 2016, I submitted the foregoing “Motion to Stay Remittitur Pending Petition to the U.S. Supreme Court for Writ of Certiorari” for filing *via* the Court’s eFlex electronic filing system. Electronic notification will be sent to the following:

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I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, at Las Vegas, Nevada, addressed as follows:

Honorable Elizabeth G. Gonzalez  
Department 11  
EIGHTH JUDICIAL DISTRICT COURT  
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/s/ Jessie M. Helm  
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