

IN THE SUPREME COURT OF THE STATE OF NEVADA

FIRSTPLUS FINANCIAL GROUP, INC.,  
Petitioner,

vs.

THE SECOND JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
WASHOE, AND THE HONORABLE  
PETER I. BREEN, DISTRICT JUDGE,  
Respondents,

and

DANFORD L. MARTIN, AN  
INDIVIDUAL; BARBARA GULENYAN,  
AN INDIVIDUAL; DANIEL M. KIRK,  
AN INDIVIDUAL; FREDERICK C.  
DUPREY, AN INDIVIDUAL; GARY L.  
JAHR, AN INDIVIDUAL; GEORGE R.  
EBERTING, AN INDIVIDUAL;  
TERESTA L. EBERTING, AN  
INDIVIDUAL; GLENN ELZAS, AN  
INDIVIDUAL; GUY OUSERUD, AN  
INDIVIDUAL; JAMES L. BROADWAY,  
AN INDIVIDUAL; JAMES P. HANSON,  
AN INDIVIDUAL; JAMES P. HANSON,  
AS TRUSTEE FOR THE JAMES P. AND  
KRISTY L. HANSON REVOCABLE  
LIVING TRUST DATED 12/6/2002;  
KRISTY L. HANSON, AS TRUSTEE  
FOR JAMES P. AND KRISTY L.  
HANSON REVOCABLE LIVING TRUST  
DATED 12/6/2002; JOHN HAYCRAFT,  
AN INDIVIDUAL; JOHN MAZZARA, AN  
INDIVIDUAL, JOHN P. ROSKO, AN  
INDIVIDUAL; KENNETH W.

No. 46305

**FILED**

NOV 23 2005

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
*J. R. R. R.*

BOLSTER, AN INDIVIDUAL;  
KENNETH W. BOLSTER, AS TRUSTEE  
FOR THE BOLSTER LIVING TRUST  
DATED 8/24/1993; MARILYN R.  
BOLSTER, AS TRUSTEE FOR THE  
BOLSTER LIVING TRUST DATED  
8/24/1993; KHANH N. MARTIN, AN  
INDIVIDUAL; LAURA GULENYAN, AN  
INDIVIDUAL; MARILYN R. BOLSTER,  
AN INDIVIDUAL; OKAN ATLAN, AN  
INDIVIDUAL; PATRICK J.  
HETHCOAT, AN INDIVIDUAL;  
PATRICK J. NOONAN, AN  
INDIVIDUAL; PAUL GULENYAN, AN  
INDIVIDUAL; ROBERT D. GOETSCH,  
AN INDIVIDUAL; ROBERT J.  
MALNAR, AN INDIVIDUAL; RON L.  
MARTIN, AN INDIVIDUAL;  
ELIZABETH MARTIN, AN  
INDIVIDUAL; RUPEN GULENYAN, AN  
INDIVIDUAL; SAHAN EGRUDER, AN  
INDIVIDUAL; STEVEN M.  
KUTCHMAN, AN INDIVIDUAL;  
SUSAN BROADWAY, AN INDIVIDUAL;  
TERENCE ALLAN, AN INDIVIDUAL;  
THOMAS W. MACFARLANE, III, AN  
INDIVIDUAL; TIM M. VALLES, AN  
INDIVIDUAL; KAREN E. VALLES, AN  
INDIVIDUAL; TIMOTHY A. AEBI, AN  
INDIVIDUAL; PATRICK J.  
HETHCOAT, AS TRUSTEE FOR THE  
HETHCOAT FAMILY TRUST DATED  
1994; DAVID WOLFF AND ILAINA  
MEISLER, AS JOINT OWNERS;  
ROBERT J. MALNAR, AS CUSTODIAN  
FOR GREGORY ALLEN MALNAR;

NEVA MILLER, AN INDIVIDUAL;  
GREGORY W. MONTGOMERY, AN  
INDIVIDUAL; AND RONALD J.  
MILLER, AN INDIVIDUAL,  
Real Parties in Interest.

ORDER DENYING PETITION FOR  
WRIT OF MANDAMUS, PROHIBITION, OR CERTIORARI

This is an original petition for alternative writs of certiorari, mandamus, or prohibition, challenging a district court order that deferred, until January 13, 2006, a shareholders' meeting scheduled for November 16, 2005. We have considered the petition for alternative writs, and we are not satisfied this court's intervention by way of extraordinary relief is warranted.<sup>1</sup>

Specifically, petitioner argues that the district court exceeded its authority under NRS 78.345 when it deferred a court-ordered shareholders' meeting scheduled for November 16, 2005. That date was chosen, however, when petitioner, in agreement with real parties in interest, and "with the [d]istrict [c]ourt's consent," deferred the initial, September 1, 2005 court-ordered shareholders' meeting. While petitioner contends that the court does not have authority to set the date for a shareholders' election, petitioner did not challenge the district court's June 1, 2005 order, which set the original election date and provided that the court would have continuing oversight to order an alternative date.


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<sup>1</sup>See NRAP 21(b).

Additionally, petitioner availed itself of this order when it sought and obtained the court's consent to defer the September 1, 2005 shareholders' election. Under these circumstances, petitioner, by its conduct, may not now challenge the district court's authority in further deferring, at real parties in interests' request, the date for the shareholders' election.<sup>2</sup>

Accordingly, we deny the petition.<sup>3</sup>

It is so ORDERED.

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Gibbons

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

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<sup>2</sup>See, e.g., Mill-Spex, Inc. v. Pyramid Precast Corp., 101 Nev. 820, 822, 710 P.2d 1387, 1388 (1985) (“A waiver may be implied from conduct which evidences an intention to waive a right, or by conduct which is inconsistent with any other intention than to waive the right.”).

<sup>3</sup>See Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991); Zamarripa v. District Court, 103 Nev. 638, 640, 747 P.2d 1386, 1387 (1987).

cc: Hon. Peter I. Breen, District Judge  
Jenkins & Gilchrist  
Kummer Kaempfer Bonner & Renshaw/Reno  
Brooke Shaw Zumpft  
Jenkins & Carter  
Washoe District Court Clerk