

IN THE SUPREME COURT OF THE STATE OF NEVADA

ASAP STORAGE, INC., A NEVADA
CORPORATION, D/B/A QUICK SPACE,
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

JOHNNY ON THE SPOT, A NEVADA
CORPORATION; AND KWIK FENCE
AND POWER RENTALS,
Real Parties in Interest.

No. 44191

FILED

SEP 23 2005

JANETIE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order denying petitioner's motion to dismiss or in the alternative motion for summary judgment.


Writ relief is an extraordinary remedy that will only issue at the discretion of this court.¹ A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust or station, or to control a manifest abuse of discretion.² Generally, this court will not exercise its discretion to consider writ petitions challenging district court orders that deny motions to dismiss or

¹Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).


²See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981).

motions for summary judgment.³ This court may, however, exercise its discretion to consider such petitions when no disputed factual issues exist and, pursuant to clear authority under a statute or court rule, the district court is obligated to dismiss an action or grant summary judgment.⁴ In addition, this court may exercise its discretion to consider these types of petitions when important issues of law require clarification.⁵ Having reviewed the petition, the answer, and petitioner's reply, it does not appear that either of the exceptions apply. Accordingly, this court's intervention by way of extraordinary relief is not warranted, and we deny the petition.⁶

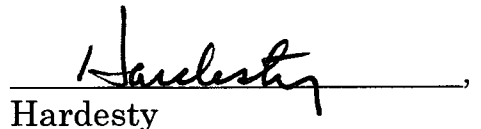
It is so ORDERED.

 J.

Maupin

 J.

Gibbons

 J.

Hardesty

³Smith v. District Court, 113 Nev. 1343, 950 P.2d 280 (1997).

⁴Id. at 1345, 950 P.2d at 281.

⁵Id.

⁶See Smith, 107 Nev. 674, 818 P.2d 849.

cc: Hon. Peter I. Breen, District Judge
Jones Vargas/Reno
Erickson Thorpe & Swainston, Ltd.
William M. O'Mara
Washoe District Court Clerk