

IN THE SUPREME COURT OF THE STATE OF NEVADA

TIG INSURANCE COMPANY,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
NANCY M. SAITTA, DISTRICT JUDGE,
Respondents,
and
JOHNSON ELECTRIC, INC.,
Real Party in Interest.

No. 46477

FILED

FEB 21 2006

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

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This is an original petition for a writ of mandamus challenging a district court order denying petitioner's motion for summary judgment or for partial summary judgment. Generally, this court declines to exercise its discretion¹ to consider writ petitions challenging district court orders that deny motions for summary judgment,² unless "no disputed factual issues exist and, pursuant to clear authority under a statute or rule, the district court is obligated to dismiss an action. Additionally, we

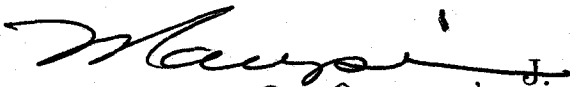
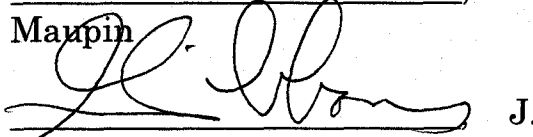
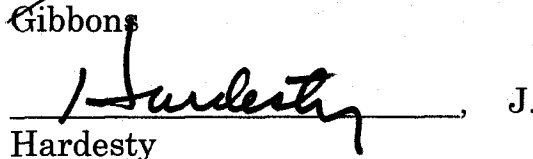
¹See Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991) (stating that the issuance of a writ of mandamus is purely discretionary with this court).

²See State ex rel. Dep't Transp. v. Thompson, 99 Nev. 358, 362, 662 P.2d 1338, 1340 (1983).

may exercise our discretion where . . . an important issue of law requires clarification.”³

Here, as petitioner contends, the appropriate time and manner to resolve insurance coverage questions appears to be an important issue of law in need of clarification. According to the district court’s order, however, there remain disputed factual issues⁴ in this case, which preclude our intervention, as this court is not an appropriate forum in which to resolve them.⁵ Therefore, we deny the petition. Given the important interests at stake, we recommend that the district court craft a discovery plan that will enable the parties to resolve the disputed factual issues at the earliest possible time. In this, we note that it is inappropriate to defer ruling on coverage issues pending resolution of an underlying constructional defect claim.

It is so ORDERED.⁶

 J.
Maupin
 J.
Gibbons
 J.
Hardesty

³See Smith v. District Court, 113 Nev. 1343, 1345, 950 P.2d 280, 281 (1997).

⁴See Wood v. Safeway, Inc., 121 Nev. ___, 121 P.3d 1026 (2005).

⁵Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

⁶See NRAP 21(b).

cc: Hon. Nancy M. Saitta, District Judge
Hutchison & Steffen, Ltd.
Yaron & Associates
Law Office of Eric A. Daly, LLC
Clark County Clerk