

IN THE SUPREME COURT OF THE STATE OF NEVADA

ELI APPLEBAUM,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF  
NEVADA, IN AND FOR THE  
COUNTY OF CLARK, AND THE  
HONORABLE JESSIE WALSH,  
DISTRICT JUDGE,

Respondents,

and

PIIANAIA LIMITED PARTNERSHIP,  
Real Party in Interest.

No. 46823

**FILED**

MAR 27 2006

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richard*  
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 that denied petitioner's motion for summary judgment. We have considered the petition, and we are not satisfied that this court's intervention by way of extraordinary relief is warranted.<sup>1</sup>

In the underlying action, real party in interest seeks, among other relief, rescission of a land purchase agreement between it and Apple

---

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

Investments, Inc. Petitioner is purportedly Apple Investments' sole shareholder, but, because he personally was not a party to the contract that real party in interest seeks to rescind, petitioner moved the district for summary judgment as to real party in interest's claims against him. The district court denied the motion.

A writ of mandamus is available to compel the district court to comply with an official duty or to control an arbitrary and capricious exercise of discretion.<sup>2</sup> A petition for such extraordinary relief is addressed to this court's sole discretion.<sup>3</sup> As a general rule, we will decline to exercise our discretion to consider mandamus petitions challenging district court orders that deny motions for summary judgment. Here, petitioner has not demonstrated that this case fits firmly within any exception to this policy.<sup>4</sup>

---


<sup>2</sup>NRS 34.160; see Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

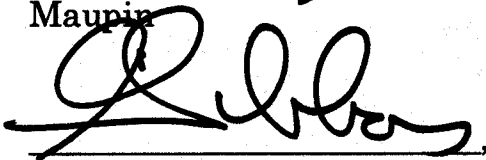
<sup>3</sup>Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

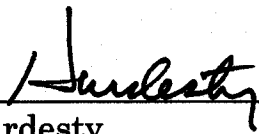
<sup>4</sup>See Smith v. District Court, 113 Nev. 1343, 1345, 950 P.2d 280, 281 (1997) (acknowledging rare exceptions to this court's general policy where "no disputed factual issues exist and, pursuant to clear authority under a statute or rule, the district court is obligated to dismiss an action[, or] where . . . an important issue of law requires clarification.").

Additionally, we note that petitioner's right to appeal any adverse final decision constitutes a plain, speedy, and adequate legal remedy that precludes extraordinary relief.<sup>5</sup> Accordingly, we

ORDER the petition DENIED.<sup>6</sup>

  
Maupin J.

  
Gibbons J.

  
Hardesty J.

cc: Hon. Jessie Elizabeth Walsh, District Judge  
Law Office of Daniel Marks  
Cotkin, Collins, & Ginsburg  
Clark County Clerk

---

<sup>5</sup>See NRS 34.170; Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004) (noting that an appeal is generally an adequate legal remedy).

<sup>6</sup>See NRAP 21(b).