

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHEE CHEW,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
JACKIE GLASS, DISTRICT JUDGE,
Respondents,
and
ROBERT LORD AND JACQUELINE
DEERR-LORD,
Real Parties in Interest.

No. 46958

FILED

APR 21 2006

JANETTE 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 that denied petitioner's motion for summary judgment and motion to dismiss.

A writ of mandamus is available to compel the performance of an act that the law requires, or to control an arbitrary or capricious exercise of discretion.¹ Mandamus is an extraordinary remedy, however, a petition for which is addressed to this court's sole discretion.²

This court generally declines to exercise its discretion to consider mandamus petitions challenging district court orders that deny motions to dismiss or motions for summary judgment, unless the petitioner has demonstrated that no disputed factual issues exist and that

¹See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

²See Poulos v. District Court, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982).

dismissal is clearly required under a statute or rule, or that considering the petition is necessary to clarify an important legal issue.³

Here, with regard to the summary judgment motion, disputed factual issues appear to remain concerning the enforceability of the release agreement, including whether real parties in interest, on entering the release agreement, had actual knowledge of the assumed risks.⁴ And no issue of law raised by this matter appears to require clarification. Thus, petitioner has failed to demonstrate that this matter fits firmly within any exception to our general policy.

Further, the district court's consideration of a motion invoking the doctrine of forum non conveniens is an exercise of judicial discretion. As petitioner has not shown that the district court, having considered the appropriate factors in deciding the motion to dismiss on forum non conveniens grounds,⁵ manifestly abused its discretion, mandamus will not lie.⁶

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

⁴Renaud v. 200 Convention Center Ltd., 102 Nev. 500, 728 P.2d 445 (1986) (recognizing that whether a party who entered into an exculpatory agreement had the required actual knowledge of the risks assumed is a question of fact).


⁵See Eaton v. District Court, 96 Nev. 773, 774, 616 P.2d 400, 401 (1980), overruled in part on other grounds by Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).


⁶See Payne v. District Court, 97 Nev. 228, 229, 626 P.2d 1278, 1279 (1981) (noting that, in a case involving forum non conveniens issues, this court will not review discretionary determinations for error), overruled in part on other grounds by Pan, 120 Nev. at 228, 88 P.3d at 844.

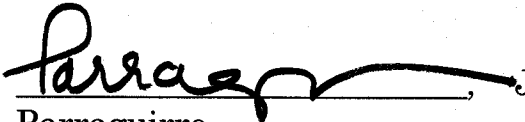
Moreover, to the extent that petitioner challenges the portion of the district court order denying his alternative request that the court “make a choice of law determination ordering that Washington law applies” and asks this court to direct the district court to apply Washington law to the underlying matter, petitioner’s request is premature. Based on the documents submitted to this court, the district court apparently denied that request without determining which state’s law applies to real parties in interest’s claims.

Accordingly, we are not convinced that this court’s intervention by way of extraordinary relief is warranted at this time, and we

ORDER the petition DENIED.⁷


_____, C.J.
Rose


_____, J.
Douglas


_____, J.
Parraguirre

⁷See NRAP 21(b).

cc: Honorable Jackie Glass, District Judge
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Gulliford, McGaughey & Dunlap
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John P. Echeverria
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Sean P. Rose
Clark County Clerk