

IN THE SUPREME COURT OF THE STATE OF NEVADA

9105 W. FLAMINGO ROAD, LLC, A  
NEVADA LIMITED LIABILITY  
COMPANY,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK, AND THE HONORABLE  
KENNETH C. CORY, DISTRICT  
JUDGE,

Respondents,


and

BIG SKY RANCH, LLC, A NEVADA  
LIMITED LIABILITY COMPANY,  
Real Party in Interest.

No. 47271

**FILED**

MAY 25 2006

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY   
CHIEF DEPUTY CLERK

ORDER DENYING PETITION FOR  
WRIT OF MANDAMUS OR PROHIBITION

This original petition for a writ of mandamus or prohibition challenges a district court order that granted a motion to strike a jury demand as to petitioner's claim for specific performance, and directed a bench trial to be held on the specific performance claim directly before a jury trial on petitioner's remaining tort claims.

Petitioner requests that this court direct the district court to conduct a jury trial on all of its causes of action, or, alternatively, that this court direct the district court to conduct a jury trial on petitioner's breach of contract and breach of implied covenant of good faith and fair dealing claims together "with [its] other legal claims," before conducting any bench trial. Presently, according to petitioner's "errata to emergency verified petition," in light of this petition, the district court has deferred the bench trial.

Both mandamus and prohibition are extraordinary remedies, and it is within this court's discretion to determine if a petition will be considered.<sup>1</sup> Having reviewed the petition and the "errata" thereto, we conclude that petitioner has not met its burden of demonstrating that our intervention by way of extraordinary relief is warranted.<sup>2</sup>

Specifically, a writ may be issued only when petitioner has no plain, speedy, and adequate legal remedy,<sup>3</sup> and this court has consistently held that an appeal is an adequate legal remedy that will preclude writ relief.<sup>4</sup> Thus, at this point, although this petition raises potentially important issues with regard to the propriety, in a bifurcated trial, of

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<sup>1</sup>See Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

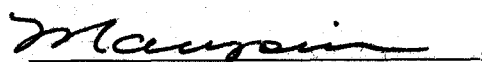
<sup>2</sup>See Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

<sup>3</sup>NRS 34.170; NRS 34.330.

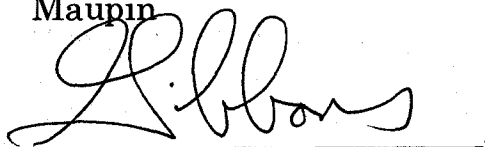
<sup>4</sup>See Pan, 120 Nev. at 224, 88 P.3d at 841.

conducting a bench trial before any jury trial, petitioner has an adequate and speedy legal remedy available in the form of an appeal from any adverse final judgment entered in the underlying case, and petitioner has not demonstrated otherwise.<sup>5</sup> We therefore,

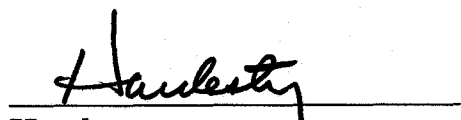
ORDER the petition DENIED.<sup>6</sup>

 J.

Maupin

 J.

Gibbons

 J.

Hardesty

cc: Hon. Kenneth C. Cory, District Judge  
Gerrard Cox & Larsen  
Jolley Urga Wirth Woodbury & Standish  
Clark County Clerk

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<sup>5</sup>Id.

<sup>6</sup>See NRAP 21(b); Smith, 107 Nev. 674, 818 P.2d 849.