

IN THE SUPREME COURT OF THE STATE OF NEVADA

HARRAH'S LAUGHLIN, INC., A
NEVADA CORPORATION,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
MARK R. DENTON, DISTRICT JUDGE,
Respondents,
and
MICHAEL BOWER,
Real Party in Interest.

No. 47593

FILED

OCT 26 2006

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

ORDER DENYING PETITION FOR WRIT
OF MANDAMUS OR PROHIBITION

This original petition for a writ of mandamus or prohibition challenges district court orders denying Harrah's Laughlin, Inc.'s motion for summary judgment in a tort action and request for leave to file a motion for reconsideration of the summary judgment.

Whether to consider a petition seeking extraordinary relief is within this court's sound discretion.¹ And unless no disputed factual issues exist and summary judgment is clearly required by a statute or rule, or an important issue of law requires clarification, this court will not exercise its discretion to consider writ petitions that challenge district

¹Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851-52 (1991).

court orders denying summary judgment motions.² Instead, an appeal provides an adequate legal remedy, precluding writ relief.³

In its summary judgment motion, Harrah's argued that collateral estoppel principles mandated judgment in its favor because real party in interest Michael Bower's complaint alleged the same negligence causes of action—arising from the same fight between the Mongols and Hell's Angels that occurred on Harrah's premises—that had been raised in an earlier federal court action involving another party who was present at Harrah's during the fight, and the issue of negligence had been decided in Harrah's favor in that case. Harrah's pointed out that, in light of the federal case, several other courts had since determined that other plaintiffs' negligence claims were precluded. According to Harrah's, the federal law doctrine of "virtual representation" bars Bower's causes of action because, although he was not a party in the earlier decided case, his interests were adequately represented by the plaintiffs in that case.

During the summary judgment hearing, the district court noted that a distinction existed between Bower and the plaintiffs in the earlier cases because, unlike those plaintiffs, Bower was a Harrah's guest who was not involved with either the Mongols or Hell's Angels. The court then reasoned that applying Harrah's concept of virtual representation would have the effect of extending collateral estoppel principles to a surprising point. In its writ petition, Harrah's asserts that the district

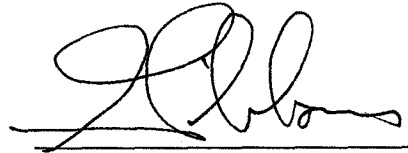
²Smith v. District Court, 113 Nev. 1343, 950 P.2d 280 (1997); see also Conklin Ex Rel. v. Buckingham, 58 Nev. 450, 453, 83 P.2d 462, 463 (1938) (recognizing that a writ of mandamus will issue only when a clear legal right to the requested relief is shown).

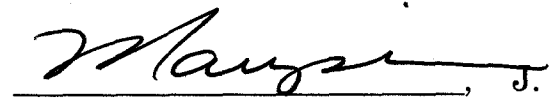
³See Pan v. Dist. Ct., 120 Nev. 222, 88 P.3d 840 (2004).

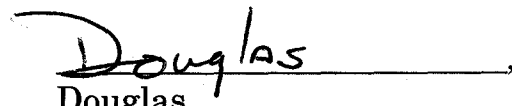
court erred by failing to apply federal law to find that Bower was virtually represented in the federal action and, thus, that his claims were precluded in the present action.

Having considered this petition and supporting documents, we are unable to conclude that the district court was obligated to enter summary judgment in Harrah's favor "pursuant to clear authority under a statute or rule."⁴ And while a legal issue may require clarification, further district court proceedings will provide an opportunity for additional factual development that may prove useful to this court in considering and resolving that issue if later raised on appeal. Thus, because Harrah's, if aggrieved by the district court's final adjudication, has an adequate legal remedy by way of appeal, our intervention by way of extraordinary relief is not warranted here. Accordingly, we deny the petition.⁵

It is so ORDERED.


_____, J.
Gibbons


_____, J.
Maupin


_____, J.
Douglas

⁴Smith, 113 Nev. at 1345; 950 P.2d at 281.

⁵See NRAP 21(b); Smith, 107 Nev. 674, 818 P.2d 849.

cc: Hon. Mark R. Denton, District Judge
Rawlings Olson Cannon Gormley & Desruisseaux
E. Brent Bryson, Ltd.
Clark County Clerk