

IN THE SUPREME COURT OF THE STATE OF NEVADA

EMPLOYERS MUTUAL INSURANCE  
COMPANY, AN IOWA CORPORATION,  
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

JAMES A. BARTON, INDIVIDUALLY,  
HEIR AND PERSONAL  
REPRESENTATIVE OF THE ESTATE  
OF HOLLY J. BARTON, DECEASED;  
JAMES A. BARTON, INDIVIDUALLY,  
HEIR AND PERSONAL  
REPRESENTATIVE OF THE ESTATE  
OF BENJAMIN BARTON, DECEASED;  
JAMES A. BARTON, AS PARENT AND  
NATURAL GUARDIAN OF REBEKAH  
J. BARTON, A MINOR AND HEIR TO  
THE ESTATE OF HOLLY J. BARTON,  
DECEASED; JAMES A. BARTON, AS  
PARENT AND NATURAL GUARDIAN  
OF ELLIE C. BARTON, A MINOR AND  
HEIR TO THE ESTATE OF HOLLY J.  
BARTON, DECEASED; AND JAMES A.  
BARTON, AS PARENT AND NATURAL  
GUARDIAN OF MATTHEW K.  
BARTON, A MINOR AND HEIR TO  
THE ESTATE OF HOLLY J. BARTON,  
DECEASED,  
Real Parties in Interest.

No. 47704

**FILED**

SEP 08 2006

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

ORDER DENYING PETITION FOR  
WRIT OF MANDAMUS OR PROHIBITION

This original petition for a writ of mandamus or prohibition challenges two district court rulings that denied two separate motions for summary judgment in the underlying consolidated negligence action.

In the summary judgment motions, petitioner Employers Mutual Insurance Company essentially maintained that real party in interest James Barton could not stack underinsured motorist coverage purchased under a policy that named Barton's limited liability company as the insured. The district court apparently denied both motions.<sup>1</sup> In its petition, Employers Mutual requests that this court direct the district court to grant the motions and prohibit the district court from relying on its previous rulings.

Both mandamus and prohibition are extraordinary remedies, and it is within this court's discretion to determine if a petition will be considered.<sup>2</sup> This court will not exercise its discretion to consider petitions for extraordinary writ relief that challenge district court orders denying motions for summary judgment, unless summary judgment is clearly required by a statute or rule, or an important issue of law requires clarification.<sup>3</sup> Further, extraordinary writs are generally available only when our resolution of the legal question presented would affect all aspects of the underlying case.<sup>4</sup> We have considered this petition, and we

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<sup>1</sup>Neither the petition nor the subsequently filed appendices includes the district court orders denying Employers Mutual's summary judgment motions.

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

<sup>3</sup>Smith v. District Court, 113 Nev. 1343, 950 P.2d 280 (1997).

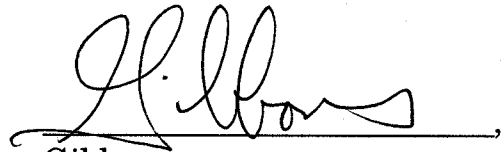
<sup>4</sup>Moore v. District Court, 96 Nev. 415, 610 P.2d 188 (1980).


are not satisfied that this court's intervention by way of extraordinary relief is warranted at this time.

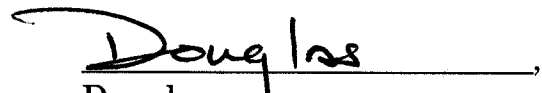
In addition, a writ may be issued only when the petitioner has no plain, speedy, and adequate legal remedy,<sup>5</sup> and this court has consistently held that an appeal is an adequate legal remedy precluding writ relief.<sup>6</sup> Here, petitioner has not met its burden to demonstrate that an appeal from any adverse final judgment is not an adequate and speedy legal remedy.<sup>7</sup>

Accordingly, we deny the petition.<sup>8</sup>

It is so ORDERED.<sup>9</sup>

  
Gibbons, J.

  
Maupin, J.

  
Douglas, J.

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<sup>5</sup>NRS 34.170, 34.330.

<sup>6</sup>See Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004).

<sup>7</sup>See id. at 228, 88 P.3d at 844 (noting that the petitioner carries the burden of demonstrating that extraordinary relief is warranted).

<sup>8</sup>See NRAP 21(b); Smith, 107 Nev. 674, 818 P.2d 849.

<sup>9</sup>In light of this order, we deny as moot Barton's August 11, 2006 motion "For Order Allowing Submittal of Additional Documents."

cc: Hon. Kenneth C. Cory, District Judge  
Bremer Whyte Brown & O'Meara, LLP  
Albright Stoddard Warnick & Albright  
Richard A. Harris  
Palmer & Associates  
Clark County Clerk