

IN THE SUPREME COURT OF THE STATE OF NEVADA

NEVADA POWER COMPANY,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
VALORIE J. VEGA, DISTRICT JUDGE,
Respondents,

and

PMD ASSOCIATES, LLC, A NEVADA
LIMITED LIABILITY COMPANY AND
KILMARNOCK, INC., A NEVADA
CORPORATION,
Real Parties in Interest.

No. 47782

FILED

AUG 03 2006

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

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus, filed on August 1, 2006, challenges the following district court rulings concerning several motions for partial summary judgment: 1) a ruling that granted real parties in interest's motion for partial summary judgment with respect to petitioner's eminent domain action; 2) a ruling that granted real parties in interest's motion for partial summary judgment on their breach of contract claim; 3) a ruling that denied petitioner's motion for partial summary judgment with respect to real parties in interest's purported right to receive rent from petitioner based on petitioner's use of a "right-of-way" to operate and maintain electrical power lines across real parties in interest's land; and 4) a ruling that denied petitioner's motion for partial summary judgment with respect to real parties in interest's claim that they have an assignment of their predecessors in interest's right to receive rent based

on petitioner's "right-of-way." Petitioner essentially requests that this court direct the district court to vacate these rulings and, instead, enter orders ruling in petitioner's favor. According to petitioner's emergency motion for a stay, which accompanies this petition, the district court trial commences August 7, 2006.

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 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.³ Further, extraordinary writs are generally available only when our resolution of the legal question presented would affect all aspects of the underlying case.⁴ We have considered this petition, and we are not satisfied that this court's intervention by way of extraordinary relief is warranted at this time.⁵

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).

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

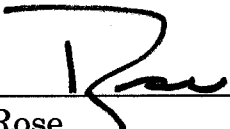
⁴Moore v. District Court, 96 Nev. 415, 610 P.2d 188 (1980).

⁵See NRAP 21(b); Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).


In addition, a writ may be issued only when petitioner has no plain, speedy, and adequate legal remedy,⁶ and this court has consistently held that an appeal is an adequate legal remedy precluding writ relief.⁷ At this point, although this petition appears to raise potentially important issues, because the district court trial is imminent, 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, as noted above, petitioner has not met its burden to demonstrate otherwise.⁸

Accordingly, we deny the petition.⁹

It is so ORDERED.¹⁰


_____, C.J.
Rose


_____, J.
Douglas


_____, J.
Hardesty

⁶NRS 34.170

⁷See Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004).

⁸See id. at 228, 88 P.3d at 844 (noting that the petitioner carries the burden of demonstrating that extraordinary relief is warranted).

⁹See NRAP 21(b); Smith, 107 Nev. 674, 818 P.2d 849.

¹⁰Petitioner's emergency motion for a stay is denied as moot.

cc: Hon. Valorie Vega, District Judge
Law Offices of Michael G. Chapman
Jimmerson Hansen
Clark County Clerk