

IN THE SUPREME COURT OF THE STATE OF NEVADA

COMPLETE MASONRY, 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
VALORIE J. VEGA, DISTRICT JUDGE,
Respondents,

and

RONALD CARRINGTON, AN
INDIVIDUAL,
Real Party in Interest.

No. 47866

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 a district court order denying a motion for summary judgment based on petitioner's assertion that it is entitled to immunity under the Nevada Industrial Insurance Act (NIIA).¹

A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust or

¹NRS Chapters 616A-616D; NRS 616A.005.

station,² or to control an arbitrary or capricious exercise of discretion.³ The counterpart to a writ of mandamus, a writ of prohibition is available when a district court acts without or in excess of its jurisdiction.⁴ Neither writ will issue, however, when the petitioner has a plain, speedy and adequate remedy in the ordinary course of law.⁵ Accordingly, 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.⁶

We have considered this petition, and we are not satisfied that this court's intervention by way of extraordinary relief is warranted. In particular, it is not clear from the documents submitted to this court that petitioner was the injured worker's statutory employer, and that compensation under the petitioner's workers' compensation insurance policy was available to the injured worker and his family, such that

²NRS 34.160; see also Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

³Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

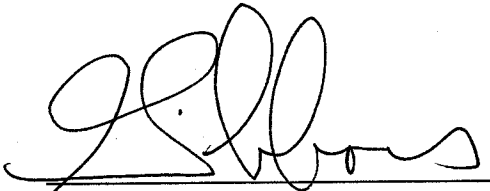
⁴State of Nevada v. Dist. Ct. (Anzalone), 118 Nev. 140, 146-47, 42 P.3d 233, 237 (2002); NRS 34.320.

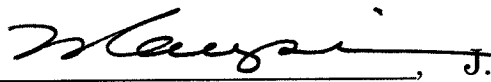
⁵Gumm v. State, Dep't of Education, 121 Nev. 371, 375, 113 P.3d 853, 856 (2005); NRS 34.170; NRS 34.330.

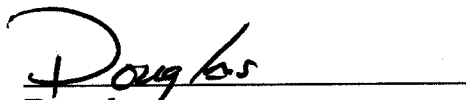
⁶Smith v. District Court, 113 Nev. 1343, 950 P.2d 280 (1997).

petitioner is entitled to immunity under the NIIA.⁷ Accordingly, we deny the petition.⁸

It is so ORDERED.


_____, J.
Gibbons


_____, J.
Maupin


_____, J.
Douglas

cc: Hon. Valorie Vega, District Judge
Bremer Whyte Brown & O'Meara, LLP
Roger P. Croteau & Associates, Ltd.
Clark County Clerk

⁷See Tucker v. Action Equip. and Scaffold Co., 113 Nev. 1349, 1356-57, 951 P.2d 1027, 1031-32 (1997) (providing that, if the defendant in a personal injury case is an NRS Chapter 624-licensed principal contractor or working pursuant to a construction agreement with a licensed principal contractor, and “performing part of the construction work for which it is licensed when the injury occurs,” it is generally entitled to NIIA immunity); see also NRS 616A.230(2) (defining “employer” for NIIA purposes); NRS 616A.285 (defining “principal contractor”).

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