

IN THE SUPREME COURT OF THE STATE OF NEVADA

W. MARCEL TAYLOR,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK, AND THE HONORABLE  
KATHY A. HARDCASTLE, DISTRICT  
JUDGE,

Respondents,


and

T-FAB, INC.,  
Real Party in Interest.

No. 48315

**FILED**

DEC 07 2006

JANNETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus requests that this court direct the district court to dismiss the underlying action. Although this petition does not appear to challenge a specific district court order, we note that the district court entered orders on February 6, 2006, and September 15, 2006, denying, respectively, petitioner's motion to dismiss and renewed motion to dismiss the underlying action.

Based on a Louisiana district court's final judgment declaring that petitioner, and not real party in interest, is the "sole franchisee under two Ruth's Chris Steak House Franchise, Inc. agreements," petitioner contends that the district court is compelled to dismiss real party in interest's action against him. According to petitioner, the Full Faith and Credit Clause of the United States Constitution and the doctrine of res judicata bar the underlying action because real party in interest's claims were litigated or could have been litigated in the earlier action between the parties in the district court of Louisiana.

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.<sup>1</sup> Mandamus is an extraordinary remedy, and the decision to entertain such a petition is addressed to this court's sole discretion.<sup>2</sup>

This court generally will not exercise its discretion to consider petitions for extraordinary writ relief that challenge district court orders denying motions to dismiss, unless dismissal 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 question presented would affect all aspects of the underlying case.<sup>4</sup>

We have considered this petition, and we are not satisfied that this court's intervention by way of extraordinary relief is warranted.<sup>5</sup> Specifically, it does not appear that all of real party in interest's claims are barred by the Full Faith and Credit Clause or the doctrine of res judicata.<sup>6</sup>

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<sup>1</sup>See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

<sup>2</sup>See Poulos v. District Court, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982).

<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).

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

<sup>6</sup>See U.S. Const. art. IV, § 1; Executive Mgmt. v. Ticor Title Ins. Co., 114 Nev. 823, 835, 963 P.2d 465, 473 (1998).

Thus, because this petition does not fit within any exception to our general policy to decline considering petitions challenging orders denying motions to dismiss and because our consideration of this petition apparently would not affect all aspects of the underlying case, we deny the petition.

It is so ORDERED.<sup>7</sup>

Becker, J.  
Becker

Hardesty, J.  
Hardesty

Parraguirre, J.  
Parraguirre

cc: Hon. Kathy A. Hardcastle, District Judge  
Campbell & Williams  
Gerrard Cox & Larsen  
Clark County Clerk

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<sup>7</sup>See NRAP 21(b); Smith, 107 Nev. 674, 818 P.2d 849.