

IN THE SUPREME COURT OF THE STATE OF NEVADA

TURNBERRY PAVILION PARTNERS, L.P.,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT  
OF THE STATE OF NEVADA, IN AND FOR  
THE COUNTY OF CLARK, AND THE  
HONORABLE NANCY M. SAITTA,  
DISTRICT JUDGE,

Respondents,


and

ONE TURNBERRY PLACE CONDOMINIUM  
ASSOCIATION, A NEVADA NON-PROFIT  
CORPORATION,  
Real Party in Interest.

No. 48367

**FILED**

NOV 13 2006

WANNETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF  
MANDAMUS OR PROHIBITION

This is an original petition for a writ of mandamus or prohibition, challenging the district court's denial of a motion for partial summary judgment in a constructional defect action.

Writs of mandamus and prohibition are available only where no plain, speedy, and adequate remedy exists in the ordinary course of the law.<sup>1</sup> This court has repeatedly held that an appeal is a speedy and adequate remedy that precludes the availability of writ relief.<sup>2</sup> According to petitioner, trial of the underlying case is scheduled to begin on November 14, 2006. Once trial is completed, petitioner, if aggrieved, may

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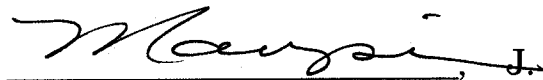
<sup>1</sup>NRS 34.170; NRS 34.330.

<sup>2</sup>Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004).

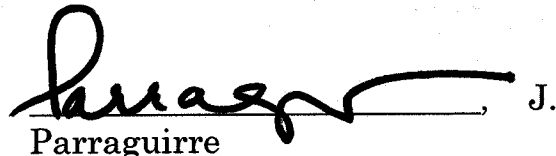
have an adequate and speedy legal remedy in the form of an appeal from any final judgment in that case.<sup>3</sup>

We further note that this court is being asked to rule on only a portion of the case and our intervention at this time would not entirely dispose of the case below. We have previously recognized that the use of mandamus to avoid the expense of a needless trial is not present when we are asked to rule on only a portion of the case.<sup>4</sup> Thus, we conclude that this court's intervention by way of extraordinary relief is not warranted. Accordingly, we deny the petition.<sup>5</sup>

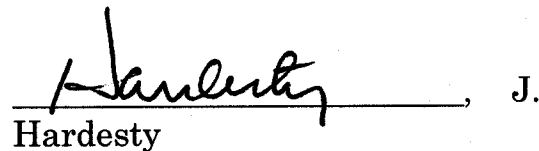
It is so ORDERED.<sup>6</sup>

 J.

Maupin

 J.

Parraguirre

 J.

Hardesty

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<sup>3</sup>NRAP 3A.

<sup>4</sup>See 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>We further deny, as moot, petitioner's stay motion. See also NRAP 8(c); Fritz Hansen A/S v. Dist. Ct., 116 Nev. 650, 6 P.3d 982 (2000).

In light of this order, petitioner need not file the requisite affidavit and proofs of service.

cc: Hon. Nancy M. Saitta, District Judge  
Beckley Singleton, Chtd./Las Vegas  
Wood, Smith, Henning & Berman, LLP  
Feinberg Grant Mayfield Kaneda & Litt, LLP  
Clark County Clerk