

IN THE SUPREME COURT OF THE STATE OF NEVADA

RLI INSURANCE COMPANY, A
FOREIGN ENTITY AND MT. HAWLEY
INSURANCE COMPANY, A FOREIGN
ENTITY,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
MICHAEL CHERRY, DISTRICT
JUDGE,

Respondents,

and

RHODES DESIGN & DEVELOPMENT
CORPORATION, A NEVADA
CORPORATION AND THE
ADDITIONAL INSUREDS IDENTIFIED
HEREIN,

Real Parties in Interest.

No. 48632

FILED

JAN 04 2007

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

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court discovery order directing petitioner RLI Insurance Company to produce its most recent tax return, ostensibly based on real parties in interest's request for punitive damages related to their fraud allegations.

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 But mandamus is an extraordinary remedy, and the decision to entertain such a petition is addressed to this court's sole discretion.² Petitioners, moreover, bear the burden of demonstrating that extraordinary relief is warranted.³

This court's extraordinary intervention is generally not available to review discovery orders, unless petitioners demonstrate that the challenged discovery order is either (1) a so-called blanket discovery order, issued without regard to the relevance of the information sought, or (2) one that requires disclosure of privileged information.⁴ After reviewing the petition and accompanying documentation,⁵ we conclude that petitioners have failed to demonstrate that this matter fits firmly within either exception to this court's general policy. Indeed, we have expressly recognized that tax returns are relevant to the matter of punitive

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).

³Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004); cf. NRAP 21(a) (noting that an extraordinary writ petition "shall contain . . . copies of any order or opinion or parts of the record which may be essential to an understanding of the matters set forth in the petition").


⁴See Hetter v. District Court, 110 Nev. 513, 515, 874 P.2d 762, 763 (1994).


⁵We deny petitioners' December 28, 2006 motion, essentially requesting that this court remove and file under seal certain documents that petitioners' included in their appendix filed on December 22, 2006.

damages, not privileged, and discoverable so long as the plaintiff demonstrates "some factual basis" supporting punitive damages.⁶

Accordingly, we conclude that our extraordinary intervention is not warranted,⁷ and we

ORDER the petition DENIED.⁸

 C.J.
Maupin

 J.
Gibbons

 J.
Douglas

cc: Eighth Judicial District Court Dept. 17, District Judge
Law Offices of Richard McKnight, P.C.
Morison-Knox, Holden, Melendez & Prough, LLP
Santoro, Driggs, Walch, Kearney, Johnson & Thompson
Clark County Clerk

⁶See *id.* at 519-20, 874 P.2d at 765-66.

⁷See NRAP 21(b); *Smith v. District Court*, 107 Nev. 674, 818 P.2d 849 (1991).

⁸In light of this order, we vacate the temporary stay granted on December 22, 2006, and we deny as moot petitioners' emergency motion for a stay filed on that same date.