

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALLSTATE INSURANCE COMPANY,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
ELIZABETH GOFF GONZALEZ,
DISTRICT JUDGE,

Respondents,

and

WILLIAM MILLER,
Real Party in Interest.

No. 48706

FILED

JAN 26 2007

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

ORDER DENYING PETITION FOR
WRIT OF MANDAMUS OR PROHIBITION

This original petition for a writ of mandamus or prohibition challenges the district court's decision to deny petitioner's motion for summary judgment, to the extent that the court denied petitioner summary judgment on real party in interest's insurance bad faith claim.

Both mandamus and prohibition are extraordinary remedies, and whether a petition for extraordinary relief will be considered is solely within this court's discretion.¹ Petitioner bears the burden of demonstrating that extraordinary relief is warranted.²

¹See Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

²Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

After reviewing the petition and supporting documentation, we conclude that petitioner has not met its burden of demonstrating that our intervention by way of extraordinary relief is warranted.³ Generally, a writ may issue only when petitioner has no plain, speedy, and adequate legal remedy,⁴ and this court has consistently held that an appeal is an adequate legal remedy precluding writ relief.⁵ Thus, as the district court trial, according to petitioner, is scheduled to commence imminently, it appears that petitioner has an adequate legal remedy available in the form of an appeal from any adverse final judgment entered in the underlying case; petitioner has not demonstrated otherwise.⁶

Further, extraordinary writs are generally available only when our resolution of the question presented would affect all aspects of the underlying case.⁷ Our consideration of this petition, however, apparently would not affect all aspects of the underlying case, as

³See id.

⁴NRS 34.170; NRS 34.330.

⁵See Pan, 120 Nev. at 224, 88 P.3d at 841.

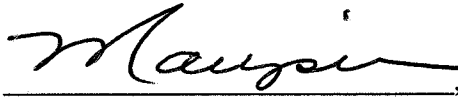
⁶Id. at 228, 88 P.3d at 844. We note that, in addition to failing to show that an appeal is an inadequate legal remedy, petitioner waited over one month from notice of the challenged district court decision's entry to file this petition, and petitioner declined to indicate on the face of the petition the impending trial date.

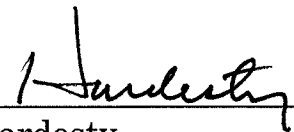
⁷Moore v. District Court, 96 Nev. 415, 610 P.2d 188 (1980).


petitioner does not contest the denial of summary judgment as to real party in interest's contract and negligence claims.⁸

Accordingly, as petitioner has not shown that our exercise of discretion to consider this petitioner is warranted, we

ORDER the petition DENIED.⁹


_____, C.J.
Maupin


_____, J.
Hardesty


_____, J.
Cherry

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Beckley Singleton, Chtd./Las Vegas
Luce Forward Hamilton & Scripps, LLC
Prince & Keating, LLP
Vannah & Vannah
Eighth District Court Clerk

⁸We note, moreover, that petitioner has not demonstrated how our extraordinary intervention so close to the scheduled trial date serves judicial economy or that this matter fits firmly within any exception to this court's general policy to decline considering petitions challenging the district court's denial of a motion for summary judgment. Smith v. District Court, 113 Nev. 1343, 1344-45, 950 P.2d 280, 281 (1997).

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