

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANCIS J. AND MAXINE MELLO; PACINI FAMILY TRUST; KING FAMILY TRUST; JOSE R. AND GRETTEL D.E. MURILLO; PETERSON TRUST; BRADLEY J. AND KATHRYN M. HOWALD; J. MICHAEL AND PAMELA O. MATTEONI; ROSENTHAL FAMILY TRUST; WAYNE C. AND SILVANA G. STOKELY; WAYNE P. AND LINDA SIEVERS; MOHAMMAD I. AND SHAHNAZ I. MEMON; E. RALPH AND LINDA F. WALKER; OLIVETTI LIVING TRUST, INDIVIDUALLY, AS TRUSTEE, AND/OR AS HUSBAND AND WIFE; AND HIDDEN MEADOWS HOMEOWNERS ASSOCIATION, Petitioners,

vs.

THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE, AND THE HONORABLE ROBERT H. PERRY, DISTRICT JUDGE,

Respondents,

and

STANTEC CONSULTING INC., A FOREIGN CORPORATION AND SUCCESSOR TO SEA, INC., A NEVADA CORPORATION,
Real Parties in Interest.

No. 49146

FILED

APR 12 2007

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

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges district court orders (1) granting in part and denying in part petitioners' motion to amend their complaint and (2) denying their motion for leave to file a motion for reconsideration and clarification of the previous order.

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 station,¹ or to control a manifest abuse of discretion.² Mandamus is an extraordinary remedy, and it is within this court's discretion to determine if a petition will be considered.³ Moreover, under NRS 34.170, a writ of mandamus is proper only when there is no plain, adequate and speedy legal remedy. This court has repeatedly stated that the right to appeal is generally an adequate legal remedy that precludes writ relief.⁴ Even if an appeal is not immediately available because the challenged order is interlocutory in nature, the fact that the order may ultimately be challenged on appeal from the final judgment generally precludes writ relief.⁵

Petitioners have indicated that trial in the underlying case is currently set for July 9, 2007. Upon completion of the trial in the underlying case, petitioners, if aggrieved, may raise the issues addressed in this petition as part of an appeal from the final judgment in that case.⁶

¹See NRS 34.160.

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

³See Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

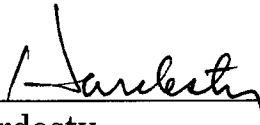
⁴Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004).

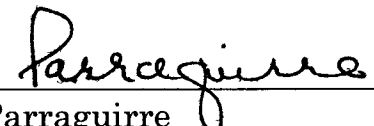
⁵Id. at 225, 88 P.3d at 841.

⁶See Consolidated Generator v. Cummins Engine, 114 Nev. 1304, 971 P.2d 1251 (1998) (noting that non-appealable interlocutory orders may be challenged in the context of an appeal from a final judgment).

Accordingly, we conclude that our intervention by way of extraordinary relief is not warranted and we deny the petition.⁷

It is so ORDERED.

, J.
Hardesty

, J.
Parraguirre

, J.
Douglas

cc: Hon. Robert H. Perry, District Judge
Robert C. Maddox & Associates/Reno
Hoy & Hoy
Washoe District Court Clerk

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