

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE MIRAGE CASINO-HOTEL,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
VALORIE J. VEGA, DISTRICT JUDGE,
Respondents,
and
ROBERT KOCIENSKI,
Real Party in Interest.

No. 49378

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THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
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VALORIE J. VEGA, DISTRICT JUDGE,
Respondents,
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FILED

JUL 18 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DENYING PETITIONS FOR WRITS OF MANDAMUS

These original petitions for writs of mandamus challenge district court rulings in an employment termination matter. Petitioner The Mirage Casino-Hotel seeks an order compelling the district court to apply the “just cause” standard of proof, as set forth in Southwest Gas v.

Vargas,¹ or otherwise, an alternative standard of proof, at the upcoming trial. Petitioner Robert Kocienski seeks an order directing the district court to vacate its partial summary judgment limiting any recovery to the contractual amount applicable if The Mirage had elected to treat him as an inactive employee.

A writ of mandamus is available to compel the performance of an act legally required, or to control a manifest, arbitrary, or capricious abuse of discretion.² Mandamus is an extraordinary remedy, however, and its issuance is within this court's sole discretion.³ The writ generally is not available when the petitioner has a plain, speedy, and adequate remedy in the ordinary course of law.⁴ As a result, this court usually will decline to exercise its discretion to consider writ petitions that challenge district court orders resolving motions for summary judgment, unless an important issue of law requires clarification and judicial economy militates in favor of granting the petition.⁵ Petitioners seeking mandamus relief bear the burden of demonstrating that this court's intervention is proper and warranted.⁶

¹111 Nev. 1064, 901 P.2d 693 (1995).

²NRS 34.160; see also Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

³See Smith, 107 Nev. At 677, 818 P.2d at 851.

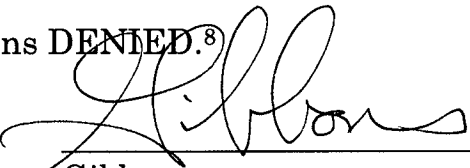
⁴NRS 34.170; Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004).

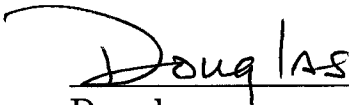
⁵Smith v. District Court, 113 Nev. 1343, 950 P.2d 280 (1997).

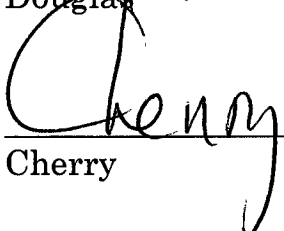
⁶Pan, 120 Nev. at 228-29, 88 P.3d at 844; NRAP 21(a).

Here, having considered these petitions and the supporting documents submitted therewith, as well as the answer timely filed by Kocienski, we determine that mandamus relief is not appropriate because petitioners have an adequate legal remedy by way of an appeal from any adverse judgment. Although petitioners assert that these petitions raise important legal issues in need of clarification and that our review would serve considerations of public policy and sound judicial economy and administration,⁷ we conclude that our consideration and resolution of those important issues would be greatly benefited by a completely developed trial court record. Accordingly, we decline to exercise our discretion to intervene, and we

ORDER the petitions DENIED.⁸


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

cc: Hon. Valorie Vega, District Judge
Kamer Zucker Abbott
Law Office of Daniel Marks
Eighth District Court Clerk

⁷See EICON v. State Bd. of Exam'rs, 117 Nev. 249, 21 P.3d 628 (2001); Smith, 113 Nev. 1343, 950 P.2d 280.

⁸NRAP 21(b).