

IN THE SUPREME COURT OF THE STATE OF NEVADA

HOLDER GROUP RED GARTER, A  
NEVADA LIMITED LIABILITY  
COMPANY,  
Petitioner,

vs.

THE SECOND JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
WASHOE, AND THE HONORABLE  
STEVEN R. KOSACH, DISTRICT  
JUDGE,

Respondents,

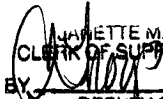
and

TRIBUNE CAPITAL, LLC, A NEVADA  
LIMITED LIABILITY COMPANY AND  
PETER ARNOLD,  
Real Parties in Interest.

No. 49873

**FILED**

SEP 18 2007

JAYETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order denying a motion for partial summary judgment and to expunge a notice of lis pendens.

Real party in interest Tribune Capital, LLC, entered into an "Agreement of Purchase and Sale" to purchase the Red Garter Hotel & Casino from petitioner Holder Group Red Garter, LLC. When the parties failed to consummate the transaction, because escrow did not timely close, Holder Group instituted an action against Tribune and real party in interest Peter Arnold, Tribune's manager (collectively "Tribune"). Tribune answered the complaint and asserted counterclaims against Holder Group, including claims for breach of contract and breach of the implied covenant of good faith and fair dealing. Additionally, Tribune sought

equitable relief in the form of specific performance<sup>1</sup> and recorded a notice of lis pendens on the Red Garter Hotel & Casino property.

Thereafter, Holder Group moved the district court for summary judgment on Tribune's specific performance "claim" and to expunge the notice of lis pendens. The district court ultimately denied the motion. This petition followed.

A writ of mandamus is available to compel the performance of an act that the law requires, or to control a manifest abuse or arbitrary or capricious exercise of discretion.<sup>2</sup> Mandamus, moreover, is an extraordinary remedy, and the decision to entertain such a petition is addressed solely to our discretion.<sup>3</sup> Further, we generally will not exercise our discretion to consider petitions for extraordinary writ relief that challenge district court orders denying motions for summary judgment, unless summary judgment is clearly required by a statute or rule, or an important issue of law requires clarification.<sup>4</sup>

---

<sup>1</sup>Tribune set forth its request for specific performance as a counterclaim. Cf. United Assn. Journeymen v. Stine, 76 Nev. 189, 211, 351 P.2d 965, 977 (1960) (recognizing that specific performance is an equitable remedy).

<sup>2</sup>See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

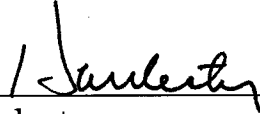
<sup>3</sup>See Poulos v. District Court, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982).

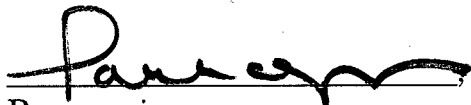
<sup>4</sup>Smith v. District Court, 113 Nev. 1343, 950 P.2d 280 (1997).

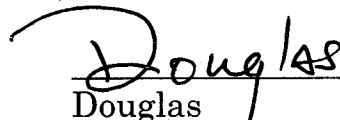
It is Holder Group's burden, as petitioner, to demonstrate that this court's extraordinary intervention is needed.<sup>5</sup> Having considered this petition and its supporting documents, we are not persuaded that our intervention by way of extraordinary relief is warranted.

Accordingly, we

ORDER the petition DENIED.<sup>6</sup>

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Douglas

cc: Hon. Steven R. Kosach, District Judge  
Molof & Vohl  
Kummer Kaempfer Bonner & Renshaw/Reno  
Washoe District Court Clerk

---

<sup>5</sup>Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

<sup>6</sup>NRAP 21(b); Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).