

IN THE SUPREME COURT OF THE STATE OF NEVADA

DYNALECTRIC COMPANY OF NEVADA,
INC., A NEVADA CORPORATION,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF CLARK,
AND THE HONORABLE MARK R.
DENTON, DISTRICT JUDGE,

Respondents,

and

CLARK & SULLIVAN CONSTRUCTORS,
INC., A NEVADA CORPORATION,
Real Party in Interest.

No. 50608

FILED

DEC 21 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order denying petitioner's motion for summary judgment.

Mandamus is an extraordinary remedy, and the decision to entertain such a petition is addressed to our sole discretion.¹ 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.² Moreover, a writ of mandamus may be issued only when petitioner has no plain, speedy, and adequate legal remedy.³ Generally,

¹See Poulos v. District Court, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982).

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


³NRS 34.170.

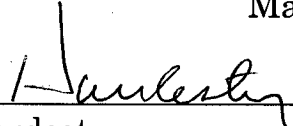
we will decline to exercise our discretion to consider writ petitions challenging district court orders that deny motions for summary judgment.⁴


Having considered this petition, we are not persuaded that our extraordinary intervention is warranted.⁵ In particular, although this petition raises a potentially important issue with respect to the import of NRS 338.141's requirement that a general contractor name in its bid for a public works project a subcontractor that will be paid an amount that exceeds five percent of the general contractor's total bid for the project, petitioner appears to have an adequate and speedy legal remedy available in the form of an appeal from any adverse final judgment entered in the underlying case—particularly in light of the imminent trial date.

We, therefore,

ORDER the petition DENIED.⁶


_____, C.J.
Maupin


_____, J.
Hardesty


_____, J.
Saitta

⁴See Smith v. District Court, 113 Nev. 1343, 1345, 950 P.2d 280, 281 (1997).

⁵NRAP 21(a); Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (noting that petitioner bears the burden to demonstrate that our intervention by way of extraordinary relief is warranted).

⁶NRAP 21(a); Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

In light of this order, we deny as moot petitioner's motions for a stay.

cc: Hon. Mark R. Denton, District Judge
Holland & Hart
McDonald Carano Wilson LLP/Las Vegas
McDonald Carano Wilson LLP/Reno
Eighth District Court Clerk