

IN THE SUPREME COURT OF THE STATE OF NEVADA

GREENWICH 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

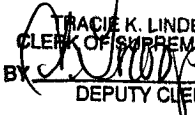
CAPITAL REEF MANAGEMENT  
CORP.; SOUTHWEST EXCHANGE,  
INC.; AND QUALIFIED EXCHANGE  
SERVICE, INC.,

Real Parties in Interest.

No. 50624

**FILED**

JAN 15 2008

TRACIE K. LINDEMAN  
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 that denied petitioner's motion to dismiss the complaint below.

According to petitioner, various individuals and entities contracted with real parties in interest to perform certain services. Based on real parties in interest's purported failure to perform those services, those individuals and entities instituted actions against them. Real parties in interest in turn instituted an action against petitioner, their insurer, seeking a declaration that their policy with petitioner provided coverage with respect to the claims brought against them.

Petitioner moved to dismiss real parties in interest's complaint, arguing that, because an exclusionary provision in the policy unequivocally excluded from coverage claims related to real parties in

interest's "performance or failure to perform professional services," the policy did not provide coverage for the claims brought against real parties in interest, which, according to petitioner, are entirely related to real parties in interest's "performance or failure to perform professional services." The district court ultimately denied petitioner's motion to dismiss. 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>1</sup> Mandamus is an extraordinary remedy, and the decision to entertain such a petition is addressed to our sole discretion.<sup>2</sup> Generally, we will decline to exercise our discretion to consider writ petitions challenging district court orders that deny motions to dismiss, unless dismissal is clearly required by a statute or rule, or an important issue of law requires clarification.<sup>3</sup> Petitioner bears the burden to demonstrate that our extraordinary intervention is warranted.<sup>4</sup>

Having considered this petition and its supporting documentation, we are not persuaded that our intervention by way of extraordinary relief is warranted. In particular, petitioner has not demonstrated that this matter fits firmly within any exception to our

---

<sup>1</sup>See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

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

<sup>3</sup>See Smith v. District Court, 113 Nev. 1343, 1345, 950 P.2d 280, 281 (1997).

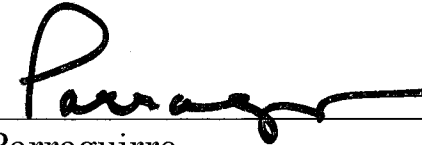
<sup>4</sup>Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

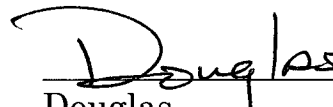
general policy to decline considering petitions challenging orders denying motions to dismiss.

Accordingly, we

ORDER the petition DENIED.<sup>5</sup>

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

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

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

cc: Hon. Elizabeth Goff Gonzalez, District Judge  
Gordon & Rees, LLP  
Santoro, Driggs, Walch, Kearney, Holley & Thompson  
Eighth District Court Clerk

---

<sup>5</sup>NRAP 21(b); Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).