

IN THE SUPREME COURT OF THE STATE OF NEVADA

SENECA FALLS LLC, A NEVADA
LIMITED LIABILITY COMPANY;
HELLER DEVELOPMENT COMPANY,
A NEVADA CLOSE CORPORATION;
HELLER DEVELOPMENT, A
CALIFORNIA CORPORATION; AND
RICHARD A. HELLER, AN
INDIVIDUAL,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
SUSAN JOHNSON, DISTRICT JUDGE,
Respondents,

and

SENECA FALLS OWNERS
ASSOCIATION, A NEVADA NON-
PROFIT CORPORATION; AMERITA
ABAD; STEVEN ARATA AND JULIE
ARATA, HUSBAND AND WIFE; TOBI
BARLOW; ROBERT E. BOYD; ADAM
BRADFORD; RICHARD BRYANT; JOSE
CAMPOS AND MARIBEL CAMPOS,
HUSBAND AND WIFE; ISAMEL CANO;
PATRICIA CEBE; DAVID CHADDOCK
AND KAYLA CHADDOCK, HUSBAND
AND WIFE; DONALD DEAN;
DEBORAH DESTITO; HECTOR
GARCIA; CORY GRABLE AND
ROCHELLE GRABLE, HUSBAND AND
WIFE; ANDREW HARRIS; JIM
HUBBARD AND TERRIE HUBBARD,
HUSBAND AND WIFE; TIMOTHY
HUGHES; LEROY JOHNSON;
WILLIAM JONES AND DIANE JONES,
HUSBAND AND WIFE; JOSE

No. 50839

FILED

MAY 08 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

LANDEROS AND MARTHA
LANDEROS, HUSBAND AND WIFE;
CLIFFORD LANGE; ERIC LINGO;
DAVID MCENULTY; JAVIER
MENDOZA; ALEJANDRO MORALES;
ALAIN NGUYEN; ROBERT
QUIMILMAN AND PATRICIA
QUIMILMAN, HUSBAND AND WIFE;
CYNTHIA RANGEL; JESUS SANCHEZ
AND MARIA SANCHEZ, HUSBAND
AND WIFE; RHEA SAYAS; MAKEDA
SHABAKA; DANNY WILLIAMS AND
GLORIA WILLIAMS, HUSBAND AND
WIFE; SCOTT WOLFE; ALFRED
ALCARO AND MARCIA ALCARO,
HUSBAND AND WIFE; RUDY
ALEXANDER AND SANDRA
ALEXANDER, HUSBAND AND WIFE;
JAIME ARANTON; DIANE BETHEL-
GARTSIDE; JENNIFER BROOKS;
ESSIE BUMPUS; CARLITO CALIX;
MARIA CARIASO; GLORIA CRUZ;
LEWIS DEMARTHA AND HISAKO
DEMARTHA, HUSBAND AND WIFE;
MARIA DRIBBEN; CURTIS FUNK;
CHRISTINA GONZALEZ; JESUS
GUZMAN ORTIZ; RALPH
HERNANDEZ AND BARBARA
HERNANDEZ, HUSBAND AND WIFE;
LESLIE HERRERA; PEARL IDIO; RICK
JENKINS AND OLGA JENKINS,
HUSBAND AND WIFE; WILLIAM
JEPSON; THERON JONES; SALLYE
JONES-JOHNSON; DENIS
MAMATTAH; JAN MCCALL; JOSE
NIETO; JOSE REVELES AND RAQUEL
REVELES, HUSBAND AND WIFE;
ANTONIO RIVAS; JOSE RIVERA;
NATALIE ROSS; FABIOLA SAMPIERO;
MINH SHEFFER; PAMELA SMALL;
HELEN SMITH; PHILLIP SMITH AND

MINNIE SMITH, HUSBAND AND WIFE; DONALD SMITS; JOSE SOTELO; KENNETH SQUIRES AND DAWN SQUIRES, HUSBAND AND WIFE; GENE STAPLES; DANIEL TIBAYAN AND IMELDLA TIBAYAN, HUSBAND AND WIFE; NICASTER UY; VICTOR VERDUZCO; CHUYEN VO; CHARLOTTE WINNICK; JOHN WONG; AND JOHN WONPU,
Real Parties in Interest.

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order denying a motion for leave to file a third amended third-party complaint in the underlying constructional defect action.

This petition concerns petitioners' attempts to include two design specialists as third-party defendants in the constructional defect action below. Although the district court allowed petitioners to file a second amended third-party complaint naming the design specialists, the court subsequently granted the design specialists' motions to dismiss that complaint. In so doing, the district court concluded, among other things, that petitioners had failed to satisfy certain requirements for commencing an action against a design professional.¹

Nevertheless, in its order dismissing the complaint, the district court provided petitioners with 30 days to correct the purported deficiencies with respect to their action against the design specialists. Thereafter, petitioners moved the district court for leave to file a third

¹See NRS 40.646(2); NRS 40.6884.

amended third-party complaint, to include the design specialists as third-party defendants in the constructional defect action. The design specialists opposed the motion, primarily asserting that petitioners failed to adequately cure the deficiencies pointed out in the district court's order dismissing petitioners' second amended third-party complaint. The district court ultimately denied petitioners' motion for leave to file a third amended third-party complaint. This writ 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 of discretion.² Mandamus is an extraordinary remedy, however, and the decision to entertain such a petition is addressed to our sole discretion.³ Petitioners bear the burden to demonstrate that our extraordinary intervention is warranted.⁴

Having considered this writ petition and its supporting documents, petitioners have failed to persuade us that our intervention by way of extraordinary relief is warranted.⁵ Specifically, the district court

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


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

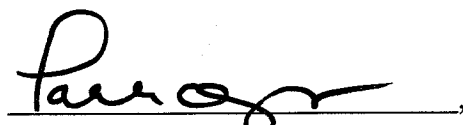
⁴Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

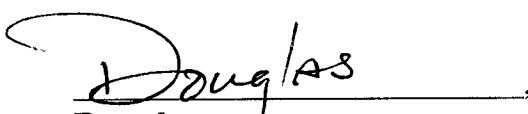
⁵We also note that petitioners failed to provide us with copies of the challenged district court order(s), as required. See NRAP 21(a) (providing that a petition for a writ of mandamus "shall contain . . . copies of any order . . . which may be essential to an understanding of the matters set forth in the petition").

did not manifestly abuse its discretion when it denied petitioners' motion for leave to file a third amended third-party complaint. Accordingly, we

ORDER the petition DENIED.⁶


_____, J.
Maupin


_____, J.
Parraguirre


_____, J.
Douglas

cc: Hon. Susan Johnson, District Judge
Campbell, Volk & Lauter
Cooksey, Toolen, Gage, Duffy & Woog
Latti Malanga Libertino
Pursiano Law Group
Fahrendorf, Viloría, Oliphant & Oster, LP
Weil & Drage, Inc.
Eighth District Court Clerk

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