

IN THE SUPREME COURT OF THE STATE OF NEVADA

WIMAR TAHOE CORPORATION, A  
NEVADA CORPORATION,  
Petitioner,

vs.

THE NINTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
DOUGLAS, AND THE HONORABLE  
DAVID R. GAMBLE, DISTRICT  
JUDGE,

Respondents,

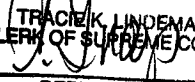
and

PARK CATTLE CO., A NEVADA  
CORPORATION,  
Real Party in Interest.

No. 50942

**FILED**

FEB 04 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 district court orders denying petitioner's motions for partial summary judgment.

Mandamus is an extraordinary remedy, and whether a petition for such relief will be considered is solely within our discretion.<sup>1</sup> Petitioner bears the burden of demonstrating that extraordinary relief is warranted.<sup>2</sup>

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<sup>1</sup>See Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

<sup>2</sup>Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Generally, a writ may issue only when petitioner has no plain, speedy, and adequate legal remedy,<sup>3</sup> and this court has consistently held that an appeal is generally an adequate legal remedy precluding writ relief.<sup>4</sup> In light of the general adequacy of an appeal and our extensive docket, we typically decline to exercise our discretion to consider writ petitions challenging district court orders that deny motions for summary judgment, unless “no disputed factual issues exist and, pursuant to clear authority under a statute or rule, the district court is obligated to dismiss an action.”<sup>5</sup> Further, extraordinary writs generally are available only when our resolution of the questions presented would affect all aspects of the underlying case.<sup>6</sup>

Here, petitioner requests this court to direct the district court to (1) interpret a provision of the lease at issue in this case, and (2) dismiss certain claims of the real party in interest as having been filed outside the statute of limitations. After reviewing the petition and supporting documentation, however, we conclude that petitioner has not met its burden of demonstrating that our intervention by way of extraordinary relief is warranted.<sup>7</sup>

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<sup>3</sup>NRS 34.170.

<sup>4</sup>See Pan, 120 Nev. at 224, 88 P.3d at 841.

<sup>5</sup>See Smith v. District Court, 113 Nev. 1343, 1345, 950 P.2d 280, 281 (1997) (we also note that “we may exercise our discretion where . . . an important issue of law requires clarification.”); see also State ex rel. Dep’t Transp. v. Thompson, 99 Nev. 358, 362, 662 P.2d 1338, 1340 (1983).

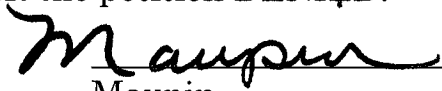
<sup>6</sup>Moore v. District Court, 96 Nev. 415, 610 P.2d 188 (1980).

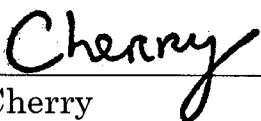
<sup>7</sup>See Pan, 120 Nev. at 228, 88 P.3d at 844.

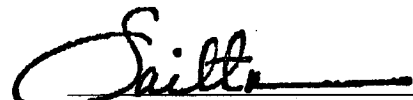
As stated in the district court's orders, there appear to remain disputed material factual issues in this case,<sup>8</sup> and this court is not an appropriate forum in which to resolve them.<sup>9</sup> Further, as the district court trial is apparently scheduled to commence imminently, it appears that petitioner has an adequate and speedy legal remedy available in the form of an appeal from any adverse final judgment entered in the underlying case.<sup>10</sup> Finally, our consideration of this petition apparently would not resolve all issues in the underlying case, as petitioner requested summary judgment with respect to only five of the real party in interest's eighteen counterclaims.

Accordingly, as petitioner has not shown that our extraordinary intervention is warranted, we

ORDER the petition DENIED.<sup>11</sup>

  
Maupin, J.

  
Cherry, J.

  
Saitta, J.

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<sup>8</sup>See Wood v. Safeway, Inc., 121 Nev. 724, 121 P.3d 1026 (2005).

<sup>9</sup>Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

<sup>10</sup>See Pan, 120 Nev. at 224, 88 P.3d at 841.

<sup>11</sup>NRAP 21(b); Smith, 107 Nev. 674, 818 P.2d 849.

In light of this order, we deny as moot petitioner's emergency motion for a stay of the district court proceedings.

cc: Hon. David R. Gamble, District Judge  
Jones Vargas/Reno  
Andrew L. Collier  
Downey Brand LLP  
Douglas County Clerk