

IN THE SUPREME COURT OF THE STATE OF NEVADA

GOLD RUSH CASINO AND HOTEL,
LLC, A NEVADA LIMITED LIABILITY
COMPANY; AND MARVIN G.
LIPSCHULTZ,
Petitioners,

vs.

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

and

CHARLIE PALMER HOTELS II, LLC, A
CORPORATE ENTITY OF UNKNOWN
ORIGIN; THE CHARLIE PALMER
GROUP, A CORPORATE ENTITY OF
UNKNOWN ORIGIN; AND CHARLIE
PALMER, A CALIFORNIA RESIDENT,
Real Parties in Interest.

No. 51420

FILED

JUL 07 2008

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

ORDER DENYING PETITION FOR
WRIT OF MANDAMUS OR PROHIBITION

This original petition for a writ of mandamus or prohibition challenges a district court order granting summary judgment in favor of real parties in interest, and an order adopting the discovery commissioner's report and recommendation barring petitioners from conducting discovery relating to issues of fiduciary duty and covenant of good faith and fair dealing.

Both mandamus and prohibition are extraordinary remedies, and whether a petition for extraordinary relief will be considered is solely within our discretion.¹ Petitioners bear the burden of demonstrating that extraordinary relief is warranted.²

After reviewing the petition and supporting documentation, we conclude that petitioners have not met their burden of demonstrating that our intervention by way of extraordinary relief is warranted.³ Generally, a writ may issue only when petitioners have no plain, speedy, and adequate legal remedy,⁴ and this court has consistently held that an appeal is an adequate legal remedy precluding writ relief.⁵ Thus, as the district court trial, according to petitioners, will be held “in the future” as to the real parties in interest’s counterclaim for breach of contract, it appears that petitioners have an adequate legal remedy available in the form of an appeal from any adverse final judgment entered in the underlying case; petitioners have not demonstrated otherwise.⁶

Further, extraordinary writs are generally available only when our resolution of the question presented would affect all aspects of

¹See Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

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

³See id.

⁴NRS 34.170; NRS 34.330.

⁵See Pan, 120 Nev. at 224, 88 P.3d at 841.

⁶Id. at 228, 88 P.3d at 844.

the underlying case.⁷ Our consideration of this petition, however, apparently would not affect all aspects of the underlying case as the real parties in interest's counterclaim is still unresolved.

With regard to petitioners' discovery related argument, generally, writ relief is unavailable in discovery disputes, unless the challenged district court order either (1) is a blanket discovery order without regard to relevance, or (2) compels the disclosure of privileged information.⁸ It appears that neither of these exceptions applies in this case.⁹ Further, as stated above, a district court trial will take place as to the real parties in interest's counterclaim for breach of contract. Petitioners have an adequate and speedy legal remedy available in the form of an appeal from any adverse final judgment entered in the underlying case.¹⁰

⁷Moore v. District Court, 96 Nev. 415, 610 P.2d 188 (1980).

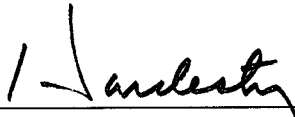
⁸See Clark County Liquor v. Clark, 102 Nev. 654, 659, 730 P.2d 443, 447 (1986).

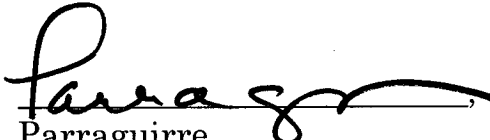
⁹The discovery commissioner's report and recommendation barring petitioners from conducting discovery relating to issues of fiduciary duty and the covenant of good faith and fair dealing was entered after the district court granted summary judgment in favor of real parties in interest on all of petitioners' claims, which included claims for breach of fiduciary responsibility, and breach of the implied covenant of good faith and fair dealing.

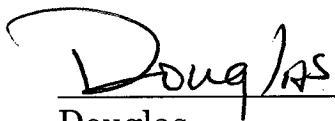
¹⁰See NRS 34.170; NRS 34.330; Pan, 120 Nev. at 224, 88 P.3d at 841.

Having considered this petition, and its supporting documents, we conclude that our intervention by way of extraordinary relief is not warranted. Accordingly, we

ORDER the petition DENIED.¹¹


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

cc: Hon. Valerie Adair, District Judge
Heritage Law Firm, LLC
Jones Vargas/Las Vegas
Eighth District Court Clerk

¹¹See NRAP 21(b); Smith, 107 Nev. at 677, 818 P.2d at 851.