

IN THE SUPREME COURT OF THE STATE OF NEVADA

NEVADA STATE PLASTERING A/K/A  
ANSE, INC., AN ARIZONA  
CORPORATION,  
Petitioner,

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

D.R. HORTON, INC., A DELAWARE  
CORPORATION; ABC ROOFING A/K/A  
ABC ROOFING AND SIDING, INC., A  
NEVADA CORPORATION A/K/A OPM,  
INC., A NEVADA CORPORATION;  
ALLARD ENTERPRISES, INC., A  
NEVADA CORPORATION; ALL-  
PURPOSE OF LAS VEGAS, INC., A  
UTAH CORPORATION; BRADLEY  
WINDOW CORPORATION, A NEVADA  
CORPORATION; BRANDON, LLC, A  
NEVADA LIMITED LIABILITY  
COMPANY A/K/A FIRST PREMIER  
DRYWALL & PAINT; CAMPBELL  
CONCRETE, INC., A/K/A CAMPBELL  
CONCRETE OF NEVADA, INC., A  
NEVADA CORPORATION; DECK  
SYSTEMS OF NEVADA A/K/A CIRCLE  
S DEVELOPMENT CORPORATION, A  
NEVADA CORPORATION;  
ENVIRONMENTAL CONTROL OF  
NEVADA, INC., A NEVADA  
CORPORATION, A/K/A ECON, K & K  
DOOR & TRIM, LLC, A NEVADA  
LIMITED LIABILITY COMPANY; RCR  
PLUMBING, INC., A NEVADA

No. 51478

**FILED**

APR 24 2008

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

CORPORATION; REPUBLIC  
ELECTRIC, INC., A NEVADA  
CORPORATION; SUNRISE  
MECHANICAL, INC., A NEVADA  
CORPORATION; AND VEGAS  
GENERAL CONSTRUCTION, A  
NEVADA CORPORATION,  
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 petitioner's motion in limine.

In the underlying constructional defect action, petitioner moved the district court to exclude from trial, which commenced later that day, evidence of petitioner's repairs of various alleged constructional defects within the High Noon condominium project in Las Vegas, Nevada. Specifically, petitioner argued that evidence of those repairs was inadmissible under NRS 48.095(1), which generally precludes from trial evidence of a party's subsequent remedial measures used to demonstrate that party's negligence. The district court denied the motion, however, concluding that NRS 48.095(1) conflicted with certain NRS Chapter 40 residential constructional defect provisions. This petition followed.

Mandamus is an extraordinary remedy, and the decision to entertain such a petition is addressed to our sole discretion.<sup>1</sup> A writ of mandamus is available to compel the performance of an act that the law


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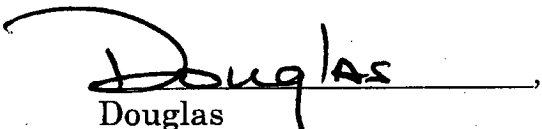
<sup>1</sup>See Poulos v. District Court, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982).

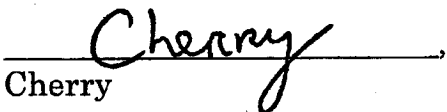
requires, or to control a manifest abuse of discretion.<sup>2</sup> Moreover, a writ of mandamus generally may be issued only when petitioner has no plain, speedy, and adequate legal remedy.<sup>3</sup>

Having considered this petition, we are not persuaded that our extraordinary intervention is warranted.<sup>4</sup> Specifically, petitioner appears to have an adequate legal remedy in the form of an appeal from any adverse final judgment entered in the underlying case.<sup>5</sup> Accordingly, we

ORDER the petition DENIED.<sup>6</sup>

  
Parraguirre J.

  
Douglas J.

  
Cherry J.

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

<sup>3</sup>NRS 34.170.

<sup>4</sup>NRAP 21(a); Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004) (noting that petitioner bears the burden to demonstrate that our intervention by way of extraordinary relief is warranted).

<sup>5</sup>See Pan, 120 Nev. at 224, 88 P.3d at 841 (noting that an appeal generally is an adequate legal remedy precluding writ relief).

<sup>6</sup>In light of this order, we deny as moot petitioner's emergency motion for a stay.

cc: Hon. Susan Johnson, District Judge  
Lincoln, Gustafson & Cercos  
Bennion Clayson & Marias  
Bremer Whyte Brown & O'Meara, LLP  
Feldman Graf  
Hansen Rasmussen, LLC  
Koeller Nebeker Carlson & Haluck, LLP  
Law Offices of Melissa P. Harris  
Luh & Associates  
Marks & Isaacson, LLP  
Marquis & Aurbach  
Meyers McConnell  
Olson, Cannon, Gormley & Desruisseaux  
Parker, Nelson & Associates  
Prince & Keating, LLP  
Quon Bruce Christensen Law Firm  
Robinson & Wood  
Sherman & Associates  
Springel & Fink  
Stutz, Artiano, Shinoff & Holtz  
Thagard, Reiss & Brown, LLP  
Wolfenzon Schulman & Ryan  
Eighth District Court Clerk