

IN THE SUPREME COURT OF THE STATE OF NEVADA

FEDERAL 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

LARRY BERTSCH, IN HIS CAPACITY
AS RECEIVER FOR SOUTHWEST
EXCHANGE, INC.,
Real Party in Interest.

No. 52666

FILED

DEC 02 2008

FRANK R. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court's order granting partial summary judgment in favor of real party in interest.

A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station,¹ or to control a manifest abuse of discretion.² Petitioner bears the burden of demonstrating that extraordinary relief is warranted.³ Generally, a writ of mandamus may issue only when petitioner has no

¹See NRS 34.160.

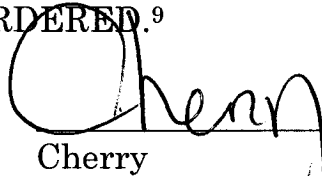
²See Nevada Yellow Cab Corp. v. Dist. Ct., 123 Nev. 44, ____, 152 P.3d 737, 740 (2007).

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


plain, speedy, and adequate legal remedy,⁴ and this court has consistently held that an appeal is generally an adequate legal remedy precluding writ relief.⁵

Here, petitioner requests that this court order the district court to vacate its order granting partial summary judgment in favor of real party in interest and issue a new order denying that motion. After reviewing the petition and supporting documentation, we conclude that our intervention by way of extraordinary relief is not warranted.⁶ Trial of the underlying case appears imminent, thus, 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.⁷ Accordingly, we deny the petition.⁸

It is so ORDERED.⁹


_____, J.
Cherry


_____, J.
Gibbons


_____, J.
Saitta

⁴NRS 34.170.

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

⁶See Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

⁷Pan, 120 Nev. at 224, 88 P.3d at 841.

⁸See NRAP 21(b).

⁹In light of this order, we deny as moot petitioner's motion for a stay.

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Anderson, McPharlin & Conners, LLP
Anderson, McPharlin & Conners, LLP
Parsons Behle & Latimer/Reno
Santoro, Driggs, Walch, Kearney, Holley & Thompson
Eighth District Court Clerk