

IN THE SUPREME COURT OF THE STATE OF NEVADA

JONATHAN L. RICHARDS,
Petitioner,

vs.

THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE, AND, THE HONORABLE
PATRICK FLANAGAN, DISTRICT
JUDGE,

Respondents,

and

BANK OF THE WEST,

Real Party in Interest.

No. 55693

FILED

APR 09 2010

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

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original proper person petition for a writ of mandamus challenges a district court order denying petitioner's motion to dismiss. Generally, this court will not exercise its discretion to consider writ petitions challenging district court orders that deny motions to dismiss, unless pursuant to clear authority under a statute or rule, the district court is obligated to dismiss the action, or an important issue of law requires clarification. Smith v. District Court, 113 Nev. 1343, 1344-45 950 P.2d 280, 281 (1997). Petitioner bears the burden to demonstrate that our extraordinary intervention is warranted. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Having considered the petition and supporting documentation, we are not persuaded that our intervention by way of extraordinary relief is warranted. In particular, we are not persuaded that the district court had a clear legal duty to dismiss the complaint at this time. See Blackjack Bonding v. Las Vegas Mun. Ct., 116 Nev. 1213, 14 P.3d 1275 (2000)

(stating that allegations in a complaint will be accepted as true when considering a motion to dismiss). During the course of the underlying action, appellant may challenge the evidence that real party in interest presents in support of its claims, but the district court properly determined that its complaint states a claim for relief. Accordingly, as writ relief is not warranted, we

ORDER the petition DENIED.¹

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

cc: Hon. Patrick Flanagan, District Judge
Jonathan L. Richards
Lewis & Roca, LLP/Reno
Washoe District Court Clerk

¹In his petition to this court as well as the papers filed in district court, petitioner repeatedly refers to the district court as a “nisi prius’ court of contract.” No such court exists, at least in this state. The district court is a general jurisdiction court of law with jurisdiction over the underlying dispute. Nev. Const. art. 6, § 6. Also, petitioner’s March 25, 2010, motion to waive the filing fee is denied, as petitioner has not established his indigence of other good cause to waive the filing fee; failure to pay the fee constitutes an independent basis for denial of this petition. NRAP 21(e).