

IN THE SUPREME COURT OF THE STATE OF NEVADA

FENTRESS ARCHITECTS, LTD.,
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,

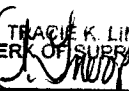
and

MS CRESCENT 3993 HUGHES SPV,
LLC,
Real Party in Interest.

No. 55770

FILED

JUN 10 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This is an original petition for a writ of mandamus challenging a district court order denying a motion to dismiss in a constructional defect action. Petitioner based its motion to dismiss on real party in interest's purported failure to comply with NRS 11.258's affidavit requirement and under the economic loss doctrine, which it asserts bars real party in interest's equitable indemnity claim against it.

This court generally will not exercise its discretion to consider petitions for extraordinary writ relief that challenge district court orders denying motions to dismiss, unless dismissal is clearly required by a statute or court rule, or an important issue of law requires clarification, and a writ may be issued only when a petitioner has no plain, speedy, and adequate legal remedy. NRS 34.170; Smith v. District Court, 113 Nev. 1343, 1345, 950 P.2d 280, 281 (1997). Having reviewed this petition and its supporting documents, we are not persuaded that our intervention by

way of extraordinary relief is warranted. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004) (providing that a petitioner bears the burden to demonstrate that this court's extraordinary intervention is warranted); see also NRAP 21(b)(1). Petitioner has failed to demonstrate that this petition fits within any exception to our general policy to decline considering petitions challenging district court orders denying motions to dismiss. Smith, 113 Nev. at 1345, 950 P.2d at 281. Moreover, petitioner may appeal from any adverse final judgment in this case. Pan, 120 Nev. at 224, 88 P.3d at 841 (noting that this court has consistently determined that an appeal is generally an adequate legal remedy precluding writ relief).

Accordingly, we

ORDER the petition DENIED.

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Weil & Drage, APC
Jones Vargas/Las Vegas
Eighth District Court Clerk