

IN THE SUPREME COURT OF THE STATE OF NEVADA

K2 ENGINEERING AND
STRUCTURAL DESIGN, LLC, A
NEVADA LIMITED LIABILITY
COMPANY,
Petitioner,

vs.

THE SECOND JUDICIAL DISTRICT OF
THE STATE OF NEVADA, IN AND FOR
THE COUNTY OF WASHOE; AND THE
HONORABLE STEVEN R. KOSACH,
DISTRICT JUDGE,

Respondents,

and

SUSAN THOMPSON,
Real Party in Interest.

No. 56724

FILED

SEP 29 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY A. Ingersoll
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 denying a motion to dismiss a construction defect action.


Writs of mandamus and prohibition are extraordinary remedies and the decision to entertain a petition requesting these forms of relief lies within this court's discretion. Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991). Such relief is generally not available when a speedy and adequate legal remedy exists. See NRS 34.170 (mandamus); NRS 34.330 (prohibition). Petitioner bears the burden of demonstrating that this court's intervention by way of extraordinary relief is warranted. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). Further, this court has previously acknowledged that writ relief is not warranted when


resolution of the petition will not dispose of the entire controversy. See Moore v. District Court, 96 Nev. 415, 416, 610 P.2d 188, 189 (1980).

Having considered the petition and supporting documents in light of these principles, we conclude that our intervention by way of extraordinary relief is not warranted. Accordingly, we deny the petition. Smith, 107 Nev. 674, 818 P.2d 849; NRAP 21(b). We note, however, that our denial of this petition does not preclude petitioner, if aggrieved, from raising these issues as part of an appeal from a final judgment entered in the underlying case.

It is so ORDERED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Steven R. Kosach, District Judge
Kent Law
Law Offices of Michael B. Springer
Washoe District Court Clerk