

IN THE SUPREME COURT OF THE STATE OF NEVADA

INTERINSURANCE EXCHANGE OF
THE AUTOMOBILE CLUB,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE

ALLAN R. EARL,

Respondents,

and

MARC MCCRAY,

Real Party in Interest.

No. 59562

FILED

FEB 10 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF PROHIBITION

This original petition for a writ of prohibition challenges a district court order denying a motion to dismiss.

A writ of prohibition is available when a district court acts without or in excess of its jurisdiction. State of Nevada v. Dist. Ct. (Anzalone), 118 Nev. 140, 146-47, 42 P.3d 233, 237 (2002); NRS 34.320. This court generally will not consider writ petitions challenging district court orders denying motions to dismiss because an appeal from the final judgment is usually an adequate and speedy legal remedy, precluding writ relief, and even when it is not, such writ petitions “rarely have merit, often disrupt district court case processing, and consume an enormous amount of this court’s resources.” International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558-59 (2008) (internal quotations omitted). In some instances, this court will consider such petitions if no factual dispute exists and the district court was obligated to dismiss the action pursuant to clear authority or if an important issue of law needs clarification. Id. at

197-98, 179 P.3d at 559. Petitioner bears the burden of demonstrating that our extraordinary intervention is warranted. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

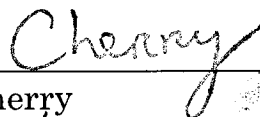
Here, petitioner moved to dismiss the insurance contract action below based on a lack of personal jurisdiction. Upon review of the parties' arguments and the documents before us, we conclude that petitioner has failed to meet its burden of demonstrating that the district court was obligated to dismiss the action pursuant to clear authority. See id.; International Game Tech., 124 Nev. at 197-98, 179 P.3d at 559.


First, the district court properly determined that petitioner had purposefully availed itself of the laws of Nevada by including in the insurance contract at issue a nationwide territory clause, which provided real party in interest with insurance coverage in this state. See Arbella Mut. Ins. Co. v. Dist. Ct., 122 Nev. 509, 514-15, 134 P.3d 710, 714 (2006) (concluding that an insurer had purposefully availed itself of Nevada's forum by including a nationwide territory clause in its insurance contract). Second, the court did not abuse its discretion by finding that the claim at issue in the complaint was sufficiently related to the territory clause in the contract. See id. at 515-16, 134 P.3d at 714 (concluding that the district court did not abuse its discretion by finding a sufficient relationship between a claim related to a car accident that occurred in Nevada and the insurer's contact with Nevada through a nationwide territory clause). Finally, the district court considered appropriate factors, such as the burden that would be imposed on petitioner if it is required to defend the suit in Nevada, this state's interest in having the claim litigated here, and real party in interest's prior litigation in this state related to the underlying accident, in finding that it would be reasonable to require

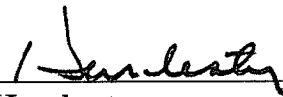
petitioner to litigate the claim in Nevada. See id. at 516, 134 P.3d at 714 (identifying relevant factors for evaluating whether the exercise of personal jurisdiction over a particular defendant would be reasonable). Thus, the district court did not exceed its jurisdiction by denying the motion to dismiss. See Anzalone, 118 Nev. at 146-47, 42 P.3d at 237; NRS 34.320 (providing that a writ of prohibition is available when a district court acts in excess of its jurisdiction).

Accordingly, we

ORDER the petition DENIED.¹


Cherry, J.


Pickering, J.


Hardesty, J.

cc: Hon. Allan R. Earl, District Judge
Ford, Walker, Haggerty & Behar
Law Offices of James J. Ream
Eighth District Court Clerk

¹We deny petitioner's December 28, 2011, motion to strike real party in interest's appendix or exhibits. Cf. NRAP 21(a)(4) (providing that a petitioner's appendix to a writ petition may contain "any other original document that may be essential to understand the matters set forth in the petition").