

IN THE SUPREME COURT OF THE STATE OF NEVADA

GOLDEN EAGLE INSURANCE
CORPORATION; AND PEERLESS
INSURANCE COMPANY,

Petitioners,

vs.

THE EIGHT JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
ALLAN R. EARL, DISTRICT JUDGE,
RESPONDENTS,

and

ACE AMERICAN INSURANCE
COMPANY,

Real Party In Interest.

No. 61939

FILED

OCT 29 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY: *[Signature]*
DEPUTY CLERK

ORDER DENYING PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION

This is an original petition for a writ of mandamus or prohibition challenging a district court order resolving competing summary judgment motions.


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, or to control an arbitrary or capricious exercise of discretion. See NRS 34.160; International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). This court may issue a writ of prohibition to arrest the proceedings of a district court exercising its judicial functions when such proceedings are in excess of the district court's jurisdiction. See NRS 34.320; Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851

(1991). Writ relief is generally not available, however, when the petitioner has a plain, speedy, and adequate remedy at law. See NRS 34.170; NRS 34.330; International Game Tech., 124 Nev. at 197, 179 P.3d at 558. An appeal is generally an adequate legal remedy precluding writ relief. Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004).

Here, trial in the underlying case is set to begin on October 30, 2012, and petitioners can challenge the summary judgment order at issue in this petition as part of an appeal from any final judgment, entered below, if they are ultimately aggrieved by that judgment. Consolidated Generator v. Cummins Engine, 114 Nev. 1304, 1312, 971 P.2d 1251, 1256 (1998) (explaining that a party may challenge an interlocutory order in the context of an appeal from a final judgment); see also NRAP 3A(b)(1); Lee v. GNLV Corp., 116 Nev. 424, 426, 996 P.2d 416, 417 (2000) (defining a final judgment). Accordingly, as petitioners have a speedy and adequate remedy available in the form of an appeal, Pan, 120 Nev. at 224, 88 P.3d at 841; NRS 34.170, 34.330, we deny the petition. NRAP 21(b).

It is so ORDERED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. Allan R. Earl, District Judge
Koletsky, Mancini, Feldman & Morrow
Lincoln, Gustafson & Cercos
Morales Fierro & Reeves
Eighth District Court Clerk