

IN THE SUPREME COURT OF THE STATE OF NEVADA

ASPEN MANUFACTURING  
HOLDINGS, INC. F/K/A ASPEN  
MANUFACTURING, INC., A FOREIGN  
CORPORATION DOING BUSINESS IN  
NEVADA,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; AND THE HONORABLE  
TIMOTHY C. WILLIAMS, DISTRICT  
JUDGE,

Respondents,

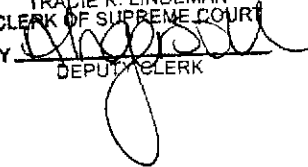
and

THE SEASONS HOMEOWNERS  
ASSOCIATION, INC., A NEVADA  
NONPROFIT CORPORATION;  
RICHMOND AMERICAN HOMES OF  
NEVADA, INC., A FOREIGN  
CORPORATION DOING BUSINESS IN  
NEVADA; AND RED ROCK  
MECHANICAL, LLC, A NEVADA  
COMPANY,  
Real Parties in Interest.

No. 64596

**FILED**

FEB 13 2014

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER DENYING PETITION FOR WRIT OF MANDAMUS*

This original petition for a writ of mandamus challenges a district court order partially denying a motion to dismiss in a construction defect action.

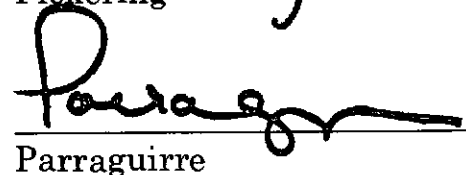
A writ of mandamus is available to compel the performance of an act that the law requires or to control an arbitrary or capricious exercise of discretion. NRS 34.160; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). Writ


relief is not available, however, when an adequate and speedy legal remedy exists, and the right to appeal is generally considered to be such a remedy. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 224, 88 P.3d 840, 841 (2004). Moreover, it is petitioner's burden to demonstrate that this court's extraordinary intervention is warranted. *Id.* at 228, 88 P.3d at 844.

Having considered petitioner's arguments, we conclude that our extraordinary intervention is not warranted. *Id.* Specifically, the arguments raised in petitioner's writ petition do not appear to be dispositive of the underlying action, and petitioner has an adequate legal remedy in the form of an appeal from a final judgment. *Pan*, 120 Nev. at 224, 88 P.3d at 841; *Westpark Owners' Ass'n v. Eighth Judicial Dist. Court*, 123 Nev. 349, 357, 360-61, 167 P.3d 421, 427, 429-30 (2007) (recognizing that a homeowners' association may pursue common-law claims against a defendant even when the defendant is not subject to NRS Chapter 40's scheme). Accordingly, we

ORDER the petition DENIED.

  
\_\_\_\_\_, J.  
Pickering

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Saitta

cc: Hon. Timothy C. Williams, District Judge  
Snell & Wilmer, LLP/Las Vegas  
Canepa Riedy & Rubino  
Wood, Smith, Henning & Berman, LLP  
Eighth District Court Clerk