

IN THE SUPREME COURT OF THE STATE OF NEVADA

BEAZER HOMES HOLDINGS CORP., A  
DELAWARE CORPORATION,  
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, DISTRICT JUDGE,  
Respondents,

and

DELORES CRUTCHER,  
INDIVIDUALLY; JEFFREY S.  
ARNOLD, INDIVIDUALLY; RANDY J.  
BANGHART AND MARY P. GOODKIN,  
INDIVIDUALLY; ROBERT AND  
HEATHER A. BARCELON,  
INDIVIDUALLY; BEN JUDGE AND  
PATRICIA WRIGHT, INDIVIDUALLY;  
BRYCE AND JULIA BRADLEY,  
INDIVIDUALLY; ANNA CATLIN,  
INDIVIDUALLY; RUSSELL S. CURRIE,  
INDIVIDUALLY; SUONG AND DEBBIE  
DIEC, INDIVIDUALLY; RICHARD  
DIPETTA, INDIVIDUALLY; PATRICIA  
DAVIS, INDIVIDUALLY; PATRICK  
FERGUSON, INDIVIDUALLY; LOUIS  
GALASSO, INDIVIDUALLY; KATHRYN  
AND DOMINIQUE GAREL,  
INDIVIDUALLY; FRANCESCHI'S  
ENTERPRISES'S PROFIT SHARING  
PLAN AND FRANCESHI SHERRILL  
TRUST, INDIVIDUALLY; JAY AND  
HARRIET GRUNFELD,  
INDIVIDUALLY; CORRINE GUZMAN,  
INDIVIDUALLY; ERIC AND STACY  
JENKINS, INDIVIDUALLY; MICHAEL  
M. JONES, INDIVIDUALLY; SEAN

No. 65561

**FILED**

JUL 24 2014

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

JONICK, INDIVIDUALLY; ANTHONY AND CECELIA JORDAN, INDIVIDUALLY; AUGUST AND VICTORIA MINUCCI, INDIVIDUALLY; RICK MCKEE, INDIVIDUALLY; GUY D. AND MARY ANN MEEK, INDIVIDUALLY; KENNETH NG, INDIVIDUALLY; PETER AND RONDA PALM, INDIVIDUALLY; PATRICK PAUL, INDIVIDUALLY; CANDELARIA POWLL, INDIVIDUALLY; JOHN P. PUCCI AND ANNE K. JACKLIN, INDIVIDUALLY; THOMAS AND SHAWANDA SCHIEFER, INDIVIDUALLY; JASON SCHUEBEL, INDIVIDUALLY; MARTIN SLATSKY, INDIVIDUALLY; NICHOLAS SOKOLOWSKI, INDIVIDUALLY; NICK STOKER AND DEBBY ALEJO STOKER, INDIVIDUALLY; JAMES W. TERRELL AND DELIA TERRELL, INDIVIDUALLY; AND JUSTIN THOMAS, INDIVIDUALLY,  
Real Parties in Interest.

*ORDER DENYING PETITION  
FOR WRIT OF MANDAMUS OR PROHIBITION*

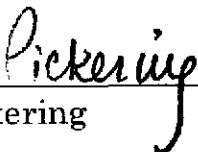
This is an original petition for a writ of mandamus or prohibition challenging a district court order denying a motion to dismiss or for summary judgment in a construction defect action.

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. NRS 34.160; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 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. NRS 34.320. It is within this court's discretion whether a writ petition will be considered, *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991), and petitioners bear the burden of demonstrating that this court's extraordinary intervention is warranted. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). Writ relief is generally available only when there is no plain, speedy and adequate remedy in the ordinary course of law, NRS 34.170; NRS 34.330, and the right to an appeal is typically an adequate legal remedy precluding writ relief. *Pan*, 120 Nev. at 224, 88 P.3d at 841.

Having considered the petition and appendix filed in this matter, we conclude that petitioner has not demonstrated that our intervention by way of extraordinary relief is warranted. *Id.* In particular, petitioner has a plain, speedy, and adequate remedy available to challenge the district court's denial of the dismissal or summary judgment motion in that petitioner, if aggrieved by the final judgment in the underlying action, may file an appeal from that judgment and challenge the order at issue in this petition in the context of that appeal. *Id.* at 224, 88 P.3d at 841; *Smith*, 107 Nev. at 677, 818 P.2d at 851; see *Consol. Generator-Nev., Inc. v. Cummins Engine Co.*, 114 Nev. 1304, 1312, 971 P.2d 1251, 1256 (1998); see also NRAP 21(b)(1). Accordingly, we

ORDER the petition DENIED.

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

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

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

cc: Hon. Allan R. Earl, District Judge  
Koeller Nebeker Carlson & Haluck, LLP/Las Vegas  
Shinnick, Ryan & Ransavage P.C./Las Vegas  
Eighth District Court Clerk