

IN THE SUPREME COURT OF THE STATE OF NEVADA

WYNN RESORTS LIMITED; JOHN J. HAGENBUCH; RAY R. IRANI; JAY L. JOHNSON; ROBERT J. MILLER; PATRICIA MULROY; CLARK T. RANDT, JR.; ALVIN V. SHOEMAKER; J. EDWARD VIRTUE; D. BOONE WAYSON; AND MATT MADDOX,  
Petitioners,

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  
THOMAS DINAPOLI, DERIVATIVELY ON BEHALF OF WYNN RESORTS LIMITED,  
Real Party in Interest.

No. 76975

**FILED**

OCT 15 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

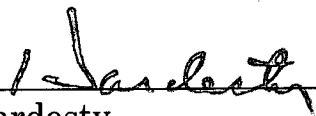
*ORDER DENYING PETITION*

This original petition for a writ of mandamus or prohibition challenges a district court order denying a motion to dismiss a shareholder derivative action based on failure to sufficiently plead demand futility. We decline to exercise our discretion to consider the petition. *See generally Smith v. Eighth Judicial Dist. Court*, 113 Nev. 1343, 1344-45, 950 P.2d 280, 281 (1997) (restating general rule that court “will not exercise [its] discretion to consider writ petitions that challenge orders of the district court denying motions to dismiss” except where (1) “considerations of sound judicial economy and administration militate[ ] in favor of granting [the] petition[ ]” such as to prevent a gross miscarriage of justice, (2) “no disputed

factual issues exist and, pursuant to clear authority under a statute or rule, the district court is obligated to dismiss an action,” or (3) “an important issue of law requires clarification”). Because we decline to entertain the petition, we deny petitioners’ motion for a stay as moot.

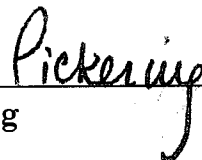
It is so ORDERED.

  
\_\_\_\_\_, C.J.  
Douglas

  
\_\_\_\_\_, J.  
Hardesty

PICKERING, J., concurring in part and dissenting in part:

While I join in the order denying a stay, I would order an answer before deciding the writ petition and to that extent I respectfully dissent.

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

cc: Hon. Timothy C. Williams, District Judge  
Snell & Wilmer, LLP/Las Vegas  
Kirkland & Ellis LLP/Los Angeles  
Kirkland & Ellis LLP/New York  
Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP/Las Vegas  
Cohen Milstein Sellers & Toll LLC/Washington DC  
Cohen Milstein Sellers & Toll LLC/New York  
Eighth District Court Clerk