

IN THE SUPREME COURT OF THE STATE OF NEVADA

AL ROGERS, AN INDIVIDUAL, AND PENNY ROGERS, AN INDIVIDUAL, BOTH D/B/A BIG AL'S GOOD TIME PIZZA AND STUFF, A SOLE PROPRIETORSHIP; JOHN PESHEK, D/B/A PIP PRINTING, A SOLE PROPRIETORSHIP; HOWARD ZINK, D/B/A MR. ROY PRODUCTIONS, A SOLE PROPRIETORSHIP; WESLEY FLETCHER, D/B/A FLETCHER ROOFING & SIDING, A SOLE PROPRIETORSHIP; RONALD TROMBLY, D/B/A RON TROMBLY CONSTRUCTION, INC., A SOLE PROPRIETORSHIP; SHELLY SWANSON, D/B/A SWANSON AND SON LAWN SERVICE, A SOLE PROPRIETORSHIP; MERL SCHNEIDER, D/B/A DAIRY QUEEN 1, A SOLE PROPRIETORSHIP; RAY TOMALAS, D/B/A R.L. TOMALAS CUSTOM CABINETS, A SOLE PROPRIETORSHIP; DARYL REEDY, AN INDIVIDUAL DOING BUSINESS AS A SOLE PROPRIETORSHIP; STEVE BROWN, AN INDIVIDUAL; THE CARSON CIGAR COMPANY, INC., A NEVADA CORPORATION; KAY MEDRANO, RAY AND KAY, INC., A NEVADA CORPORATION; LYNN GARD, AN INDIVIDUAL; BACK TO THE GRIND, INC., A NEVADA CORPORATION; JAMES L. CARPENTER, AN INDIVIDUAL; ANDY JENSEN, AN INDIVIDUAL; ANTHONY P. DIEHL, AN INDIVIDUAL; JEFF SLIGAR, AN INDIVIDUAL; CARL J. DERICCO, AN INDIVIDUAL; THE TOWN BARBERS, A NEVADA LIMITED LIABILITY CORPORATION; CARSON CITY CHAMBER OF COMMERCE, A NEVADA CORPORATION; DAYTON AREA CHAMBER OF COMMERCE, A NEVADA CORPORATION; DOUGLAS COUNTY CHAMBER OF COMMERCE, A NEVADA CORPORATION; ELKO COUNTY CHAMBER OF COMMERCE, A NEVADA CORPORATION; GREATER RENO-SPARKS CHAMBER OF COMMERCE, A NEVADA CORPORATION; GREATER LAS VEGAS CHAMBER OF COMMERCE, A NEVADA CORPORATION; ASSOCIATED GENERAL CONTRACTORS OF AMERICA, A NEVADA NOT-FOR-PROFIT CORPORATION; NEVADA ASSOCIATION OF EMPLOYERS, A NEVADA NOT-FOR-PROFIT CORPORATION; AND NEVADA TAXPAYER'S ASSOCIATION, A NEVADA NOT-FOR-PROFIT CORPORATION,

Petitioners,

vs.

THE FIRST JUDICIAL DISTRICT COURT  
OF THE STATE OF NEVADA, IN AND FOR

No. 37186

**FILED**

JAN 05 2001

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *Richard*  
CHIEF DEPUTY CLERK

CARSON CITY, AND THE HONORABLE  
MICHAEL R. GRIFFIN, DISTRICT  
JUDGE,

Respondents,

and

DEAN HELLER, IN HIS OFFICIAL  
CAPACITY AS SECRETARY OF STATE OF  
THE STATE OF NEVADA; NEVADA STATE  
EDUCATION ASSOCIATION, A NEVADA  
NON-PROFIT COOPERATIVE  
CORPORATION; AND NEVADA RESORT  
ASSOCIATION,

Real Parties in Interest.

No. 37189

AL ROGERS, AN INDIVIDUAL, AND  
PENNY ROGERS, AN INDIVIDUAL, BOTH  
D/B/A BIG AL'S GOOD TIME PIZZA AND  
STUFF, A SOLE PROPRIETORSHIP; JOHN  
PESHEK, D/B/A PIP PRINTING, A SOLE  
PROPRIETORSHIP; HOWARD ZINK, D/B/A  
MR. ROY PRODUCTIONS, A SOLE  
PROPRIETORSHIP; WESLEY FLETCHER,  
D/B/A FLETCHER ROOFING & SIDING,  
A SOLE PROPRIETORSHIP; RONALD  
TROMBLY, D/B/A RON TROMBLY  
CONSTRUCTION, INC., A SOLE  
PROPRIETORSHIP; SHELLY SWANSON,  
D/B/A SWANSON AND SON LAWN  
SERVICE, A SOLE PROPRIETORSHIP;  
MERL SCHNEIDER, D/B/A DAIRY QUEEN  
1, A SOLE PROPRIETORSHIP; RAY  
TOMALAS, D/B/A R.L. TOMALAS CUSTOM  
CABINETS, A SOLE PROPRIETORSHIP;  
DARYL REEDY, AN INDIVIDUAL DOING  
BUSINESS AS A SOLE PROPRIETORSHIP;  
STEVE BROWN, AN INDIVIDUAL; THE  
CARSON CIGAR COMPANY, INC., A  
NEVADA CORPORATION; KAY MEDRANO,  
RAY AND KAY, INC., A NEVADA  
CORPORATION; LYNN GARD, AN  
INDIVIDUAL; BACK TO THE GRIND,  
INC., A NEVADA CORPORATION; JAMES  
L. CARPENTER, AN INDIVIDUAL; ANDY  
JENSEN, AN INDIVIDUAL; ANTHONY P.  
DIEHL, AN INDIVIDUAL; JEFF SLIGAR,  
AN INDIVIDUAL; CARL J. DERICCO, AN  
INDIVIDUAL; THE TOWN BARBERS, A  
NEVADA LIMITED LIABILITY  
CORPORATION; CARSON CITY CHAMBER  
OF COMMERCE, A NEVADA CORPORATION;  
DAYTON AREA CHAMBER OF COMMERCE, A  
NEVADA CORPORATION; DOUGLAS COUNTY  
CHAMBER OF COMMERCE, A NEVADA  
CORPORATION; ELKO COUNTY CHAMBER  
OF COMMERCE, A NEVADA CORPORATION;  
GREATER RENO-SPARKS CHAMBER OF  
COMMERCE, A NEVADA CORPORATION;  
GREATER LAS VEGAS CHAMBER OF

COMMERCE, A NEVADA CORPORATION;  
ASSOCIATED GENERAL CONTRACTORS OF  
AMERICA, A NEVADA NOT-FOR-PROFIT  
CORPORATION; NEVADA ASSOCIATION OF  
EMPLOYERS, A NEVADA NOT-FOR-PROFIT  
CORPORATION; AND NEVADA TAXPAYER'S  
ASSOCIATION, A NEVADA NOT-FOR-  
PROFIT CORPORATION,

Appellants,

vs.

DEAN HELLER, IN HIS OFFICIAL  
CAPACITY AS SECRETARY OF STATE OF  
THE STATE OF NEVADA; AND NEVADA  
STATE EDUCATION ASSOCIATION, A  
NEVADA NON-PROFIT COOPERATIVE  
CORPORATION,

Respondents.

ORDER DENYING PETITION  
FOR WRIT OF MANDAMUS OR PROHIBITION,  
GRANTING MOTION TO TREAT PETITION AS OPENING BRIEF, AND  
GRANTING MOTION TO EXPEDITE APPEAL

This is an original petition for a writ of mandamus or in the alternative a writ of prohibition, challenging a district court order denying petitioners' complaint for injunctive relief, and denying their petition for writ of mandamus, or in the alternative, writ of prohibition in the district court (Docket No. 37186). Petitioners have also filed a timely appeal in this matter (Docket No. 37189). Petitioners/appellants seek expedited consideration of this matter. The real parties in interest have moved this court to summarily deny the writ petition and do not oppose expedited treatment.

We have considered the writ petition and the motion to summarily deny the petition, and we are not satisfied that our intervention by way of extraordinary relief is warranted. A writ of mandamus or prohibition will not issue if petitioner has a plain, speedy and adequate remedy in the ordinary course of the law. See NRS 34.170; NRS 34.330. We conclude that petitioners/appellants have an adequate and speedy remedy in

the form of the appeal that was filed in this matter on December 22, 2000. See *Ashokan v. State, Dep't of Ins.*, 109 Nev. 662, 665-66, 856 P.2d 244, 246 (1993) (explaining that an appeal may be taken from an order of the district court granting or denying mandamus relief); NRAP 3A(b)(1) (providing that an appeal may be taken from a final judgment). Accordingly, we deny the petition. See NRAP 21(b); *Smith v. District Court*, 107 Nev. 674, 818 P.2d 849 (1991).

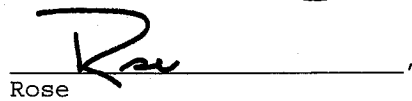
Further, we grant petitioners/appellants' motion to treat the petition as the opening brief in the appeal. Accordingly, we direct the clerk of this court to transfer the writ petition and appendix in Docket No. 37186 to the appeal in Docket No. 37189. In treating the petition as an opening brief, we grant petitioners/appellants' motion to waive the 30-page limitation set forth in NRAP 28(g). In addition, we grant the motion to expedite this matter to the extent this court's docket will allow. In the interest of expediting the appeal, we suspended the settlement conference requirements under NRAP 16 and the preparation and transmission of the record under NRAP 11. See NRAP 2 (providing that this court may suspend requirements or provisions of appellate rules).


Respondents shall file an answering brief on or before January 19, 2001. Petitioners/appellants shall file any reply brief on or before January 26, 2001. Additionally, we direct petitioners/appellants to file a supplemental brief on or before January 19, 2001, explaining why the constitutional issues raised in the opening brief are ripe for this court's consideration. See *Stumpf v. Lau*, 108 Nev. 826, 89 P.2d 120 (1992); *Las Vegas Chamber of Commerce v. Del Papa*, 106 Nev. 910, 802 P.2d 1280 (1990); *City of North Las Vegas v. Cluff*, 85 Nev. 200, 452 P.2d 461 (1969); *Caine v. Robbins*, 61 Nev. 416, 131 P.2d 516 (1942). In light of this expedited

briefing schedule, we will not grant any requests for an extension of time absent extreme and unforeseeable circumstances. We direct the clerk of this court to schedule this matter for argument on this court's en banc calendar on February 7, 2001, at 1:30 p.m. Argument shall be limited to one hour.

It is so ORDERED.<sup>1</sup>

  
Shearing J.

  
Rose J.

  
Leavitt J.

cc: Hon. Michael R. Griffin, District Judge  
Attorney General  
Legislative Counsel  
McMullen Strategic Group  
McDonald Carano Wilson McCune Bergin Frankovich & Hicks  
LLP  
Schreck Brignone & Godfrey  
Dyer Lawrence Cooney & Penrose  
Allison MacKenzie Hartman Soumbeniotis & Russell  
Carson City Clerk

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<sup>1</sup>We deny as moot petitioners/appellants' January 4, 2001, motion to consolidate the petition, Docket No. 37186, and the appeal, Docket No. 37189.