

IN THE SUPREME COURT OF THE STATE OF NEVADA

BOBBY STEPHENS MASONRY, VITA
ELECTRIC, AND LANDSCAPE
MANAGEMENT,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, IN AND FOR
THE COUNTY OF CLARK, AND THE
HONORABLE MICHAEL L. DOUGLAS,
DISTRICT JUDGE,

Respondents,

and

THE FALLS AT HIDDEN CANYON
HOMEOWNERS ASSOCIATION, A NEVADA
NON-PROFIT MUTUAL BENEFIT
CORPORATION; CAPITAL PACIFIC
HOMES, INC., A NEVADA CORPORATION;
AND DURABLE HOMES, INC., A DEFUNCT
DELAWARE CORPORATION,

Real Parties in Interest.

No. 37732

FILED

MAY 16 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges Judge Douglas's disqualification of attorney Michael Caspino as counsel for petitioners. While a writ of mandamus is available to control an arbitrary or capricious exercise of discretion¹ when petitioners have no plain, speedy and adequate remedy in the ordinary course of the law,² mandamus is an extraordinary remedy and it is within our discretion to decide whether to consider or grant such relief.³

¹Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

²NRS 34.170.

³Poulos v. District Court, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982).

01-08142

District courts are responsible for controlling the conduct of attorneys practicing before them, have broad discretion in determining whether disqualification is warranted and have been advised to resolve doubts in favor of disqualification.⁴ Here, Caspino's untimely appearance threatened to disrupt and delay a complex multi-party construction defects trial. The motion to disqualify Caspino raised a legitimate concern that the outcome of a related insurance case could create a conflict of interest in the construction defects case. Given the fact that the jury trial had already started, Caspino had not previously participated on behalf of petitioners and petitioners had experienced trial counsel representing them, petitioners have not shown that Judge Douglas acted arbitrarily or capriciously by disqualifying Caspino while allowing Caspino's firm and associate to continue representing petitioners. Because we are not satisfied that this court's intervention by way of extraordinary relief is warranted at this time, we deny the writ petition.⁵

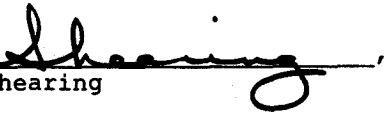
The writ petition raises an additional issue that concerns us. The petition, which was signed and certified by counsel on April 17, 2001, and filed in this court on April 19, 2001, represents the status of the insurance case as "pending" in Department 17 of the Eighth Judicial District Court. It appears, however, that the case had been dismissed and closed on April 12, 2001. Since counsel was actively involved in the case, it seems likely that he knew that the case had been dismissed when he stated that it was "pending."

⁴Cronin v. District Court, 105 Nev. 635, 640, 781 P.2d 1150, 1153 (1989).

⁵See NRAP 21(b).

Counsel for petitioners shall have thirty (30) days from the date of this order within which to show cause why he should not be sanctioned for his apparent lack of candor to this court.⁶

It is so ORDERED.


Shearing J.


Agosti J.


Rose J.

cc: Hon. Michael L. Douglas, District Judge
Ryder & Caspino
Gonzalez & Associates, Ltd.
Clark County Clerk

⁶See SCR 172(1)(a).