

IN THE SUPREME COURT OF THE STATE OF NEVADA

KEY PROPERTY MANAGEMENT, LLC,
A NEVADA LIMITED LIABILITY
COMPANY; AND KEY REALTY
SOUTHWEST, LLC, A NEVADA
LIMITED LIABILITY COMPANY,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF CLARK;
AND THE HONORABLE TARA D.
CLARK NEWBERRY, DISTRICT JUDGE,
Respondents,
and,
PRESTON PERKINS, AN INDIVIDUAL,
Real Party in Interest.

No. 86047

FILED

MAR 09 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *E. Brown*
DEPUTY CLERK

ORDER DENYING PETITION

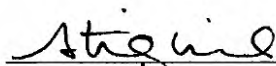
This original petition for a writ of mandamus or prohibition challenges a district court order denying a summary judgment motion in tort action.

Having considered the petition and its supporting documents, we are not persuaded that writ relief is warranted. *See Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 224, 228, 88 P.3d 840, 841, 844 (2004) (observing that the party seeking writ relief bears the burden of showing such relief is warranted); *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991) (observing that interlocutory writ relief is an extraordinary remedy and whether to consider a petition seeking such relief is within this court's sole discretion). First, petitioners have an adequate remedy at law—an appeal from any adverse final judgment—and therefore writ relief is not appropriate. *See* NRS 34.170; NRS 34.330; *Pan*, 120 Nev. at 224, 88 P.3d at 841 (“[T]he right to appeal is generally an adequate legal remedy that precludes writ relief.”). Second,


23-07338

we generally decline to exercise our discretion as to petitions challenging orders denying summary judgment motions, and we are not convinced that any of the exceptions for doing so apply in this case. *See Smith v. Eighth Judicial Dist. Court*, 113 Nev. 1343, 1344-45, 950 P.2d 280, 281 (1997) (discussing exceptions to this general rule). In particular, the challenged district court order identifies a question of material fact as to the viability of real party in interest's claim, and we are not persuaded that the portions of the record to which petitioners point "irrefutably demonstrate[]" that real party in interest's claims accrued in May 2018. *Winn v. Sunrise Hosp. & Med. Ctr.*, 128 Nev. 246, 253, 277 P.3d 458, 463 (2012) (recognizing that the date on which a cause of action accrues is normally a question of fact and that "[d]ismissal on statute of limitations grounds is only appropriate when uncontroverted evidence irrefutably demonstrates plaintiff discovered or should have discovered the facts giving rise to the cause of action" (quotation omitted)); *cf. Walker v. Second Judicial Dist. Court*, 136 Nev. 678, 682-83, 476 P.3d 1194, 1197-98 (2020) (stating conditions requisite to mandamus relief, including that petitioners have a legal right to the act the petition seeks to compel, respondent has a plain duty to perform such act, and the absence of an alternate legal remedy). Accordingly, we

ORDER the petition DENIED.


_____, C.J.
Stiglich


_____, J.
Lee


_____, J.
Bell

cc: Hon. Tara D. Clark Newberry, District Judge
Sugden Law
Kang & Associates PLLC
Eighth District Court Clerk