

IN THE SUPREME COURT OF THE STATE OF NEVADA

BURKE CONSTRUCTION GROUP,  
INC.,  
Petitioner,  
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  
ZHENG SHI, INDIVIDUALLY AND  
KYL GROUP, INC.,  
Real Parties in Interest.

No. 90665

**FILED**

JUN 01 2026

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *Melissa Fuller*  
DEPUTY CLERK

*ORDER GRANTING PETITION FOR A WRIT OF MANDAMUS*

This is an original petition for a writ of mandamus seeking to compel the district court to vacate and expunge an order denying petitioner's motion for summary judgment and to enter an order granting petitioner's motion for summary judgment. Eighth Judicial District Court, Clark County; Tara D. Clark Newberry, Judge.

Petitioner Burke Construction Group, Inc. ("Burke"), is the third-party defendant in an action brought by its employee, Shauneene St. Amand who was involved in a vehicular collision. St. Amand filed a tort claim against real parties in interest, Zheng Shi and Shi's employer, KYL Group, Inc. (collectively, "Shi"). Shi also filed third-party claims against Burke for indemnification and contribution, claiming that Burke was more at fault than Shi for the collision. It is undisputed that St. Amand was injured in the course and scope of her employment with Burke and that

Burke maintained workers' compensation insurance for which St. Amand's injuries qualified.

Burke moved for summary judgment, arguing that it cannot be held liable in an indemnification or contribution claim for St. Amand's work-related injuries under the Nevada Industrial Insurance Act (NIIA) codified as NRS Chapter 616A through Chapter 616D. The district court denied the motion after finding an exception to the NIIA when an employer is more at fault for an employee's injuries than the third party seeking indemnity or contribution. Burke now petitions this court for mandamus relief.

"Writ relief is an extraordinary remedy that will only issue at the discretion of this court. A writ of mandamus is available . . . to control [a] manifest abuse of discretion." *State v. Eighth Jud. Dist. Ct. (Anzalone)*, 118 Nev. 140, 146, 42 P.3d 233, 237 (2002). "Writ relief is not available, however, when an adequate and speedy legal remedy exists and . . . an appeal generally constitutes a sufficient remedy." *Rolf Jensen & Assocs. v. Eighth Jud. Dist. Ct.*, 128 Nev. 441, 444, 282 P.3d 743, 745 (2012) (citation modified). We elect to exercise our discretion and entertain the instant petition because summary judgment is clearly required under the NIIA and the district court manifestly abused its discretion by applying an incorrect legal standard. *See id.* at 444-45, 282 P.3d at 746 ("We typically will not entertain writ petitions challenging the denial of a motion for summary judgment unless no factual dispute exists and summary judgment is clearly required by a statute or rule, or an important issue of law requires clarification." (citation modified)).

The NIIA provides the exclusive legal remedy for covered employees' injuries that occur within the course and scope of employment.

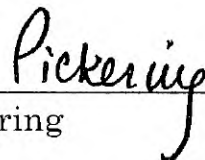
NRS 616A.020(1) (stating that the rights and remedies provided by the NIIA “shall be exclusive”). We have construed the exclusive remedy provision to also insulate employers from third-party indemnification and contribution claims for such injuries. See *Kellen v. Eighth Jud. Dist. Ct.*, 98 Nev. 133, 134-35, 642 P.2d 600, 600-01 (1982). Thus, “[a]bsent an independent duty owed to a third party, employers and co-employees are insulated by the provisions of the [NIIA] . . . from liability by way of indemnity to a third party.” *Id.* at 134, 642 P.2d at 600-01.

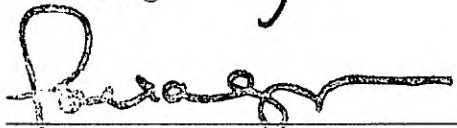
In this case, however, the district court found that an equity exception to the NIIA’s exclusive remedy provision created a genuine issue of material fact. Under this exception, the district court concluded that Shi’s third-party claims could survive the exclusive remedy provision of the NIIA if Burke’s comparative culpability for St. Amand’s injuries was found to be more serious than Shi’s. The district court supported its decision with *Santisteven v. Dow Chemical Co.*, a Ninth Circuit case assessing whether the exclusive remedy provision of the NIIA also insulates employers from certain equitable indemnification claims. 506 F.2d 1216 (9th Cir. 1974). The district court quoted dicta from *Santisteven* about how equitable indemnity usually operates, but it omitted the Ninth Circuit’s conclusion that the NIIA bars indemnification claims against employers based on their culpability for employees’ workplace injuries: “indemnity is allowed because the employer’s transgression is more serious than the third party’s. *But if it is in reality a liability of employer to employee that supports indemnification, that is exactly the type of liability which the Nevada Act extinguishes.*” *Id.* at 1219-20 (emphasis added). In contrast to the district court’s finding, *Santisteven* concurs with this court’s subsequent opinions construing the NIIA; specifically, that NIIA-compliant employers are

insulated from third-party indemnification and contribution claims when these claims are predicated on liability for employees' injuries in the course and scope of employment. *See Outboard Marine Corp. v. Schupbach*, 93 Nev. 158, 165, 561 P.2d 450, 454 (1977); *Kellen*, 98 Nev. at 134-35, 642 P.3d at 600-01.

The undisputed facts here show that Burke maintained a workers' compensation policy and that St. Amand suffered injury in the course and scope of employment. Under the NIIA, Burke is thus insulated from Shi's third-party indemnification and contribution claims. Accordingly, we

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court to vacate its order denying the motion for summary judgment and to enter an order granting summary judgment.

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

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

  
\_\_\_\_\_, J.  
Bell

cc: Hon. Tara D. Clark Newberry, District Judge  
Wood, Smith, Henning & Berman, LLP/Las Vegas  
Hall Jaffe & Clayton, LLP  
Eighth District Court Clerk