



IN THE SUPREME COURT OF THE STATE OF NEVADA

BIG SKY RANCH, LLC AND  
WESTCORP MANAGEMENT GROUP  
ONE, INC.,  
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF CLARK  
AND THE HONORABLE ERIC  
JOHNSON,

Respondents,

and

DEBRA BRASSARD, INDIVIDUALLY;  
PAUL BRASSARD, INDIVIDUALLY;  
ASHLEY R. CAWLEY, INDIVIDUALLY;  
AND LAURA EDWARDS, AS SPECIAL  
ADMINISTRATOR OF THE ESTATE  
OF CHRISTOPHER BRASSARD,  
DECEASED

Real Parties in Interest.

No. 90600

*ORDER DENYING PETITION FOR A WRIT OF MANDAMUS*

This is an original petition for a writ of mandamus challenging a district court order denying a motion for summary judgment in a civil action. “Writ relief is an extraordinary remedy that will only issue at the discretion of this court.” *State v. Eighth Jud. Dist. Ct. (Anzalone)*, 118 Nev. 140, 146, 42 P.3d 233, 237 (2002). For traditional mandamus to issue, the district court must have committed a clear error of law or manifestly abused its discretion. *Archon Corp. v. Eighth Jud. Dist. Ct.*, 133 Nev. 816, 821, 407 P.3d 702, 707 (2017). And writ relief is not available when an adequate and speedy legal

remedy exists. *Int'l Game Tech., Inc. v. Second Jud. Dist. Ct.*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008).

Having reviewed the petition, we conclude the petitioners have not demonstrated that extraordinary writ relief is warranted. By its terms, the district court's order is tentative, not final: It notes that "[d]iscovery is ongoing" and that, based on the facts and arguments presented, the court finds that "receiving reimbursement for funeral expenses is not *necessarily* indicative that [p]laintiffs made a binding election of remedies" and "does not constitute an 'accord and satisfaction'" that would prevent them from pursuing their tort claims. The district court's order does not preclude future motions for summary judgment or judgment as a matter of law on more fully developed facts. Additionally, petitioners may renew their arguments on appeal. *See also Anse, Inc. v. Eighth Jud. Dist. Ct.*, 124 Nev. 862, 865, 192 P.3d 738, 742 (2008) ("We generally will not exercise our discretion to consider petitions for extraordinary writ relief that challenge district court orders denying motions for summary judgment, unless summary judgment is *clearly* required by a statute or rule, or an important issue of law requires clarification.") (emphasis added).

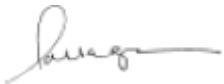
Petitioners have not shown that the district court clearly erred in declining to hold as a matter of law that one plaintiff's acceptance of the funeral expense reimbursement barred all plaintiffs' claims. *Cotter v. Eighth Jud. Dist., Ct.*, 134 Nev. 247, 249, 416 P.3d 228, 232 (2018). Whether a claimant must know that accepting reimbursement of funeral expenses will bar their common law tort claims, moreover, is a question this court has not decided and that has split courts in other states. *Compare, e.g., Bolinger v. Kiburz*, 270 N.W.2d 603, (Iowa 1978) (requiring a waiver of benefits must be "intelligent and intentional" and with "knowledge of the remedies and that the acceptance

of one waives the right to the other”), *with Anderson v. Indus. Comm’n Ariz.*, 711 P.2d 595, 601 (Ariz. 1985) (holding that the state’s workers compensation scheme allows waiver by accepting benefits without requiring “that the worker understand that he has common law rights or that he is waiving them”). Without full development of the facts and the law applicable to those facts, the district court denied summary judgment in conditional terms, without categorically rejecting the Petitioners’ immunity from suit under the Nevada Industrial Insurance Act. In doing so, the district court neither committed clear legal error nor manifestly abused its discretion in a way that justifies extraordinary writ relief. *Archon Corp.*, 133 Nev. at 821, 407 P.3d at 707. Accordingly, we

ORDER the petition DENIED but do so without prejudice.



Pickering, J.



Parraguirre, J.



Bell, J.

cc: Christian Morris Trial Attorneys  
Thorndal Armstrong /Las Vegas  
Hon. Eric Johnson, District Judge  
Eighth Judicial District Court Clerk