

IN THE SUPREME COURT OF THE STATE OF NEVADA

INSTA-FOAM PRODUCTS, INC.; AND
FLEXIBLE PRODUCTS COMPANY,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
KATHY A. HARDCASTLE, DISTRICT
JUDGE,

Respondents,

and

LYNN COLE,
Real Party in Interest.

No. 40459

FILED

APR 10 2003

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

ORDER DENYING PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION

This petition for a writ of mandamus or prohibition challenges a district court order denying petitioners' motion for summary judgment, which was brought on the basis that the underlying personal injury action was time-barred. Having reviewed the petition, answer, reply and supporting documents, we decline to intervene by extraordinary writ.¹


We generally decline to consider writ petitions challenging orders denying motions for summary judgment. Although we may deviate from this policy in the interests of sound judicial policy and administration—for example, when no disputed factual issues exist and dismissal is mandated by clear authority, or to clarify an important issue


¹We grant petitioners' motion to file a reply to the answer that was filed February 24, 2003, in compliance with our January 23, 2003 order, and we direct the clerk of this court to file the reply received April 1, 2003.

of law—this is not such a case.² When there are disputed facts regarding a statute of limitation's application, summary judgment is inappropriate.³ And summary judgment is also inappropriate when undisputed facts are susceptible to opposing inferences.⁴ Here, the district court decided that it could not rule, as a matter of law, that the real party in interest was, or should have been, aware of her cause of action at a date sufficiently early that the statute of limitation would bar her claim. Petitioners have not demonstrated that there are no genuine factual issues and that the district court was obligated by clear authority to grant summary judgment. They also have not demonstrated that an important issue of law needs clarification, and that considerations of sound judicial economy and administration militate in favor of granting the petition. Accordingly, we

ORDER the petition DENIED.


Shearing J.


Leavitt J.


Becker J.

²Smith v. District Court, 113 Nev. 1343, 1345 n.1, 950 P.2d 280, 281 n.1 (1997).

³Massey v. Litton, 99 Nev. 723, 669 P.2d 248 (1983).

⁴Millspaugh v. Millspaugh, 96 Nev. 446, 611 P.2d 201 (1980).

cc: Hon. Kathy A. Hardcastle, District Judge
McDonald Carano Wilson LLP/Las Vegas
Bradley Drendel & Jeanney
Clark County Clerk