

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHIROPRACTIC PHYSICIANS BOARD  
OF NEVADA, AN AGENCY OF THE  
STATE OF NEVADA; JO BRIGGS;  
CINDY WADE; BILL BAILEY; AND  
JEFF ANDREWS,

Petitioners,

vs.

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

Respondents,

and

RODDY S. WONG, D.C.,

Real Party in Interest.

No. 41217

**FILED**

APR 21 2003

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

ORDER DENYING PETITION  
FOR WRIT OF MANDAMUS OR PROHIBITION

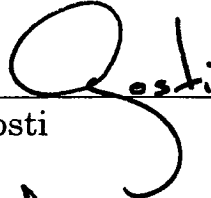
This original petition for a writ of mandamus or prohibition challenges a district court order denying petitioners' motion for summary judgment and dismissal of the complaint in the underlying action. We decline to intervene for several reasons. First, we generally decline to exercise our discretion to consider writ petitions challenging district court orders denying motions for summary judgment or to dismiss, and petitioner has not established that this case fits firmly within an exception to this policy.<sup>1</sup> Second, laches precludes our consideration of this writ

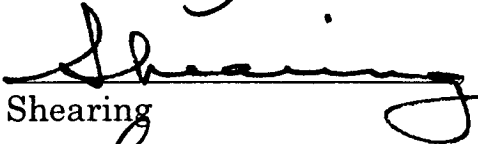
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<sup>1</sup>Smith v. District Court, 113 Nev. 1343, 950 P.2d 280 (1997) (reaffirming this court's general policy, but acknowledging rare exceptions when no factual disputes exist and the district court is obligated to dismiss an action under clear authority).

petition.<sup>2</sup> Petitioners filed this petition more than five months after the district court entered its order denying their motion to dismiss, and three months after the district court rescheduled the trial to accommodate their filing of the petition. With less than two weeks remaining before trial, petitioners' delay has prejudiced the real party in interest. Third, under these circumstances, petitioners' right to appeal any adverse final decision constitutes a plain, speedy and adequate remedy that precludes extraordinary relief.<sup>3</sup> We therefore

ORDER the petition DENIED.<sup>4</sup>

  
\_\_\_\_\_, C.J.  
Agosti

  
\_\_\_\_\_, J.  
Shearing

  
\_\_\_\_\_, J.  
Leavitt

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<sup>2</sup>See Buckholt v. District Court, 94 Nev. 631, 584 P.2d 672 (1978); Bailey v. Baker, 696 S.W.2d 255, 256 (Tex. App. 1985) (denying a mandamus petition because of an unjustified delay in seeking relief).

<sup>3</sup>See NRS 34.170 (mandamus); NRS 34.330 (prohibition); Karow v. Mitchell, 110 Nev. 958, 878 P.2d 978 (1994) (noting that an appeal is generally an adequate remedy).

<sup>4</sup>See NRAP 21(b). We deny as moot petitioners' request that we consolidate this petition with Wong v. State Board Of Chiropractic Examiners, Docket No. 35939.

cc: Hon. Lee A. Gates, District Judge  
Attorney General Brian Sandoval/Carson City  
Law Office of Benson Lee, Esq.  
Mirch & Mirch  
Clark County Clerk