

IN THE SUPREME COURT OF THE STATE OF NEVADA

STANLEY W. PARRY, INDIVIDUALLY;
STANLEY W. PARRY CHARTERED;
AND WILLIAM P. CURRAN,
INDIVIDUALLY D/B/A CURRAN &
PARRY,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
GENE T. PORTER, DISTRICT JUDGE,
Respondents,
and
NGA #2 LIMITED LIABILITY
COMPANY,
Real Party in Interest.

No. 41658

FILED

JUL 30 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 that denied a motion for partial summary judgment in a legal malpractice case. A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting

from an office, trust or station,¹ or to control an arbitrary or capricious exercise of discretion.² A writ of prohibition may be issued to compel a government body or official to cease performing acts beyond its legal authority.³ Mandamus or prohibition will not issue, however, if petitioner has a plain, speedy and adequate remedy in the ordinary course of law.⁴ Further, mandamus and prohibition are extraordinary remedies, and whether a petition will be entertained is entirely within the discretion of this court.⁵ Generally, this court does not consider writ petitions challenging district court orders that deny summary judgment, except when no disputed factual issues exist, and pursuant to clear authority under a statute or rule, the district court is obligated to dismiss the action.⁶

¹See NRS 34.160

²See Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

³NRS 34.320; Ashokan v. State, Dep't of Ins., 109 Nev. 662, 856 P.2d 244 (1993).

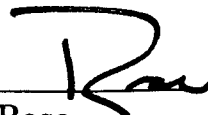
⁴NRS 34.170; NRS 34.330.

⁵Poulos v. District Court, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982); see also Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

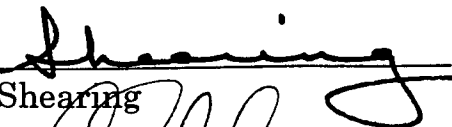
⁶See Smith v. District Court, 113 Nev. 1343, 950 P.2d 280 (1997).

We have considered this petition, and we are not satisfied that our intervention by way of extraordinary relief is warranted at this time. Accordingly, we deny the petition.⁷


It is so ORDERED.⁸



Rose J.



Shearing J.



Gibbons J.

cc: Hon. Gene T. Porter, District Judge
Pico & Mitchell
John Peter Lee Ltd.
Clark County Clerk

⁷See NRAP 21(b).

⁸We note that it appears this court can review the district court's denial of petitioners' summary judgment motion on direct appeal from any adverse judgment. NRAP 3A(b)(1); see Consolidated Generator v. Cummins Engine, 114 Nev. 1304, 971 P.2d 1251 (1998) (stating that interlocutory orders may be heard on appeal from final judgment). In light of this order, we deny as moot petitioners' motion for stay.