

IN THE SUPREME COURT OF THE STATE OF NEVADA

GENO MUNARI, AN INDIVIDUAL;  
AND HOUDINI MEDIA, INC., A  
NEVADA CORPORATION,  
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK, AND THE HONORABLE  
ELIZABETH HALVERSON, DISTRICT  
JUDGE,

Respondents,

and

HERBERT KAUFMAN,  
Real Party in Interest.

No. 49897

**FILED**

SEP 07 2007

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY Alvarado  
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order that denied petitioners' motion for summary judgment.<sup>1</sup>

Real party in interest instituted the underlying proceedings based on petitioners' alleged breach of the parties' Stock Distribution Agreement. Petitioners moved for summary judgment, essentially arguing that their agreement with real party in interest was not valid, given his fraud in inducing it, and that, even if the agreement were valid, real party in interest could not demonstrate that he sustained any damages. The district court denied the motion without prejudice. This petition followed.

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<sup>1</sup>In light of this order, court reporter Lee Bahr need not file the transcript of the May 23, 2007 proceedings requested on July 30, 2007.

A writ of mandamus is available to compel the performance of an act that the law requires, or to control a manifest abuse or arbitrary or capricious exercise of discretion.<sup>2</sup> Mandamus, moreover, is an extraordinary remedy, and the decision to entertain such a petition is addressed solely to our discretion.<sup>3</sup> To demonstrate that our extraordinary intervention is warranted is petitioner's burden.<sup>4</sup>

After reviewing this petition and its supporting documents, we are not persuaded that our intervention by way of extraordinary relief is warranted. In particular, 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.<sup>5</sup> Even then, a writ may issue only when petitioner has no plain, speedy, and adequate legal remedy,<sup>6</sup> and this court has consistently held that an appeal is generally an adequate legal remedy precluding writ relief.<sup>7</sup>

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<sup>2</sup>See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

<sup>3</sup>See Poulos v. District Court, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982).

<sup>4</sup>Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

<sup>5</sup>Smith v. District Court, 113 Nev. 1343, 950 P.2d 280 (1997).


<sup>6</sup>NRS 34.170.


<sup>7</sup>See Pan, 120 Nev. at 224, 88 P.3d at 841.

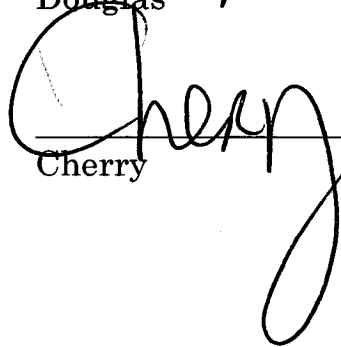
Here, petitioner has not demonstrated that this petition fits firmly within any exception to our general policy to decline considering petitions challenging district court orders denying summary judgment, and the availability of an appeal from any adverse final judgment in this case appears to constitute an adequate legal remedy precluding writ relief.

Accordingly, we

ORDER the petition DENIED.<sup>8</sup>

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Cherry

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<sup>8</sup>See NRAP 21(b); Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

cc: Eighth Judicial District Court, Department 23  
Lewis & Roca, LLP/Las Vegas  
Bailus Cook & Kelesis  
Lee Bahr, Court Reporter  
Eighth District Court Clerk