

IN THE SUPREME COURT OF THE STATE OF NEVADA

JESS C. ARNDELL,
Petitioner,

vs.

THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE, AND THE HONORABLE
ROBERT H. PERRY, DISTRICT JUDGE,
Respondents,

and

RALPH WALKER AND LINDA
WALKER,
Real Parties in Interest.

No. 51699

FILED

JUN 13 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
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 determined that petitioner acted as the alter ego of his corporations, which are defendants in the underlying constructional defect action.

The underlying constructional defect case concerns the Hidden Meadows development in Reno, Nevada, developed by petitioner's corporations, Hidden Meadows Company and Jess Arndell Construction Company, Inc. The district court allowed the plaintiffs, including real parties in interest, to amend the complaint to assert claims directly against petitioner based on allegations that he acted as the alter ego of Hidden Meadows Company and Jess Arndell Construction. Thereafter, the district court entered an order bifurcating the determination whether petitioner acted as the alter ego of his corporations from the jury trial on the constructional defect-based claims.

In December 2007, after conducting a bench trial on the alter ego issue, the district court entered an order determining that petitioner, Hidden Meadows Company, and Jess Arndell Construction Company were “the alter egos of each other for all purposes.” This petition followed.¹

The writ of mandamus is available to compel the performance of an act that the law requires, or to control a manifest abuse of discretion.² A writ of mandamus’s counterpart, the writ of prohibition, is available to arrest the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of the district court’s jurisdiction.³ Both mandamus and prohibition are extraordinary remedies, however, and whether a petition will be considered is within our discretion.⁴ Further, extraordinary writs are generally available only when our resolution of the question presented would affect all aspects of the underlying case.⁵ Petitioner bears the burden to demonstrate that our intervention by way of extraordinary relief is warranted.⁶

Having considered this petition and its supporting documentation, we are not persuaded that our intervention by way of

¹A jury trial on the constructional defect portion of the underlying case apparently is scheduled for October 2008.

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

³NRS 34.320.

⁴See Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

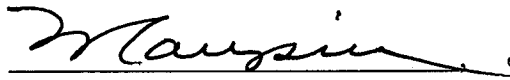
⁵Moore v. District Court, 96 Nev. 415, 610 P.2d 188 (1980).

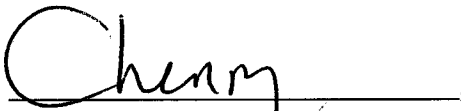
⁶Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).


extraordinary relief is warranted. Moreover, we note that petitioner may challenge the district court's order in the context of an appeal from the final judgment, if aggrieved.⁷

Accordingly, we

ORDER the petition DENIED.⁸

 J.
Maupin

 J.
Cherry

 J.
Saitta

cc: Hon. Robert H. Perry, District Judge
Koeller Nebeker Carlson & Haluck, LLP
Robert C. Maddox & Associates/Reno
Washoe District Court Clerk

⁷See id. at 224, 88 P.3d at 841 (2004) (noting that the availability of an appeal is generally an adequate legal remedy precluding writ relief); Valley Bank of Nevada v. Ginsburg, 110 Nev. 440, 446, 874 P.2d 729, 734 (1994) (noting that a party is aggrieved “when either a personal right or right of property is adversely and substantially affected’ by a district court’s ruling” (quoting Estate of Hughes v. First Nat’l Bank, 96 Nev. 178, 180, 605 P.2d 1149, 1150 (1980))).

⁸NRAP 21(b); Smith, 107 Nev. 674, 818 P.2d 849.