

IN THE SUPREME COURT OF THE STATE OF NEVADA

WYNN LAS VEGAS, LLC,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
JERRY A. WIESE, DISTRICT JUDGE,
Respondents,
and
FRANCES ANN BLANKENSHIP,
Real Party in Interest.

No. 62350

FILED

JAN 17 2013

TRAGIE K. LINDEMAN
CLERK OF SUPREME COURT
BY Angela
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order denying a motion for summary judgment.


A writ of mandamus is available to compel the performance of an act that the law requires or to control an arbitrary or capricious exercise of discretion. NRS 34.160; International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). Whether a writ of mandamus will be considered is purely discretionary with this court. Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). It is petitioner's burden to demonstrate that our extraordinary intervention is warranted. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

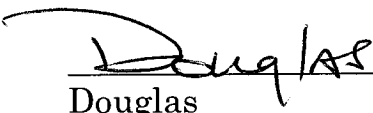
This court typically declines to exercise its discretion to consider writ petitions challenging district court orders denying summary judgment motions, unless "no disputed factual issues exist and, pursuant to clear authority under a statute or rule, the district court is obligated to dismiss an action." Smith v. District Court, 113 Nev. 1343, 1345, 950 P.2d

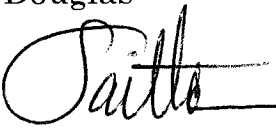
280, 281 (1997). In Foster v. Costco Wholesale Corporation, 128 Nev. ___, ___ P.3d ___ (2012) (Adv. Op. No. 71, December 27, 2012), this court abrogated the holding in Gunlock v. New Frontier Hotel, 78 Nev. 182, 370 P.2d 682 (1962), on which petitioner based its petition for writ of mandamus. Accordingly, petitioner has failed to satisfy its burden to show that no disputed factual issues exist and that the district court was obligated to dismiss this action based on clear authority under a statute or rule.

Having considered the petition, we therefore conclude that our intervention by way of extraordinary relief is not warranted. Smith, 107 Nev. 674, 677, 818 P.2d 849, 851(1991); NRAP 21(b)(1). Accordingly, we

ORDER the petition DENIED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Saitta

cc: Hon. Jerry A. Wiese, District Judge
Wilson, Elser, Moskowitz, Edelman & Dicker, LLP/Las Vegas
Richard Harris Law Firm
Eighth District Court Clerk