## IN THE SUPREME COURT OF THE STATE OF NEVADA

ORLUFF OPHEIKENS; SLADE OPHEIKENS: CHET OPHEIKENS: AND TOM WELCH. Petitioners. 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 PETER GARDNER; CHRISTIAN GARDNER, ON BEHALF OF MINOR CHILD L.G.: HENDERSON WATER PARK, LLC, D/B/A COWABUNGA BAY WATER PARK; SHANE HUISH; SCOTT HUISH; CRAIG HUISH; WILLIAM PATRICK RAY, JR.; AND R&O CONSTRUCTION COMPANY, INC., Real Parties in Interest.

No. 79426

## FILED

AUG 2 3 2019

CLERK OF SUPREME COURT
BY
DEPUTY CLERK

## ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original, emergency petition for a writ of mandamus challenges a district court order denying summary judgment in a tort action. In particular, petitioning LLC managers challenge the district court's decision to allow the tort claims against them to proceed despite this court's decision in *Gardner v. Eighth Judicial District Court*, 133 Nev. 730, 405 P.3d 651 (2017), recognizing (in this case) that LLC managers cannot be held liable on third-party tort claims based solely on their status as managers, and despite NRS 78.138's 2017 and 2019 amendments.

SUPREME COURT OF NEVADA

(O) 1947A

19-35358

Having reviewed the petition and supporting documents, we conclude that our extraordinary intervention is not warranted. As a general rule, we will not exercise our discretion to consider writ petitions that challenge district court orders denying summary judgment. Smith v. Eighth Judicial Dist. Court, 113 Nev. 1343, 1344, 950 P.2d 280, 281 (1997). Although we have "allowed a very few exceptions" to that rule, id. at 1344-45, 950 P.2d at 281, we are not convinced that any of them warrant our consideration of this petition, particularly as trial is scheduled to begin in October and the issues presented can be raised on appeal from a final judgment such that petitioners have a plain, speedy, and adequate legal remedy that precludes writ relief, NRS 34.170; Pan v. Eighth Judicial Dist. Court, 120 Nev. 222, 225, 88 P.3d 840, 841 (2004). Therefore, we

ORDER the petition DENIED.

Hardesty, J.

stigue , J.

Gelner

Stiglich

Silver

cc: Hon. Jerry A. Wiese, District Judge
Olson, Cannon, Gormley, Angulo & Stoberski
Godfrey Johnson
Brownstein Hyatt Farber Schreck, LLP/Las Vegas
Campbell & Williams
Hall Jaffe & Clayton, LLP
Stephenson & Dickinson
Rogers, Mastrangelo, Carvalho & Mitchell, Ltd.
Eighth District Court Clerk