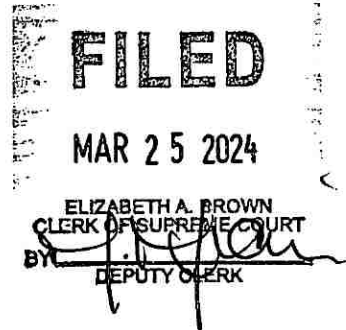


IN THE SUPREME COURT OF THE STATE OF NEVADA

GOLDBERG, KERSHEN & ALTMANN,
LLC,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
ANNA C. ALBERTSON,
Respondents,
and
DAVID DAVIES; AND VILLAS AT THE
LAKE II, LLC,
Real Parties in Interest.

No. 87136



ORDER DISMISSING PETITION

This original petition for a writ of mandamus requests that this court direct the district court to vacate its order of recusal and order denying a motion to reconsider recusal, and enter orders resolving motions for summary judgment and denying a request for an extension of time. Eighth Judicial District Court, Clark County; Anna C. Albertson, Judge.

Petitioner has filed a motion to dismiss its petition as moot. Petitioner asserts that subsequent to the filing of the petition, the district court matter was reassigned to a new district court judge and orders granting its summary judgment motions have now been entered. Therefore, the relief requested in the petition is now unnecessary. Real parties in interest have filed a response and purported joinder, arguing that the recusal was improper and suggesting that the summary judgment orders were improperly entered while the writ petition was pending. Real parties in interest purport to join the petition, asking that this court remand the

matter to the original district court judge and vacate the summary judgment orders. Petitioner has replied.

Real parties in interest's purported joinder to petitioner's petition is disapproved. In particular, real parties in interest cannot join in the petition to the extent they seek relief not sought in the original petition. Further, real parties in interest could have filed an appeal from the district court orders granting summary judgment, *see* NRAP 3A(b)(1) (allowing an appeal from a final judgment), in the context of which they could have challenged the interlocutory order of recusal, *see Consolidated Generator-Nevada, Inc. v. Cummins Engine Co.*, 114 Nev. 1304, 1312, 971 P.2d 1251, 1256 (1998). The availability of an appeal precludes writ relief at this juncture. *See Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 224, 88 P.3d 840, 841 (2004) (recognizing that the right to appeal is generally an adequate legal remedy precluding writ relief and that "writ relief is not available to correct an untimely notice of appeal").

Cause appearing, petitioner's motion to dismiss its writ petition is granted. This matter is dismissed.

It is so ORDERED.



_____, J.
Herndon



_____, J.
Lee



_____, J.
Bell

cc: Hon. Anna C. Albertson, Judge
Origins Legal Group, LLC
Christopherson Law Offices
Eighth District Court Clerk