

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 HUIH; SCOTT
HUIH; CRAIG HUIH; WILLIAM
PATRICK RAY, JR.; AND R&O
CONSTRUCTION COMPANY, INC.,
Real Parties in Interest.

No. 79426

FILED

AUG 23 2019

ELIZABETH A. BROWN
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.

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.
Hardesty

Stiglich, J.
Stiglich

Silver, J.
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