

UNITED STATES COURT OF APPEALS

May 26, 2009

FOR THE TENTH CIRCUIT

Elisabeth A. Shumaker  
Clerk of Court

In re:

COMMERCE & INDUSTRY  
INSURANCE COMPANY; AIG  
DOMESTIC CLAIMS INC.,

Petitioners.

No. 09-6076  
(D.C. No. 5:08-CV-01014-F)  
(W.D. Okla.)

**ORDER**

Before **HARTZ**, **TYMKOVICH**, and **HOLMES**, Circuit Judges.

Petitioners Commerce & Industry Insurance Company and AIG Domestic Claims, Inc. have filed a petition for a writ of prohibition and/or mandamus seeking an order from this court either prohibiting the district court from enforcing a discovery order requiring the production of certain documents over petitioners' objections or mandating that the district court vacate that discovery order.

“[M]andamus is a ‘drastic’ remedy that is ‘to be invoked only in extraordinary situations.’” *In re Antrobus*, 519 F.3d 1123, 1124 (10th Cir. 2008) (quoting *Allied Chem. Corp. v. Daiflon, Inc.*, 449 U.S. 33, 34 (1980) (per curiam)). In order to be entitled to mandamus relief, petitioners must show that their right to the writ is “clear and indisputable.” *Allied Chem. Corp.*,

449 U.S. at 35 (quotation omitted). “We have held that the right to the writ is clear and indisputable when the petitioner can show a judicial usurpation of power or a clear abuse of discretion.” *In re Qwest Commc’ns Int’l Inc.*, 450 F.3d 1179, 1184 (10th Cir. 2006) (quotation and alteration omitted). The standards for a writ of prohibition are the same as the standards for a writ of mandamus. *See In re McCarthy*, 368 F.3d 1266, 1268 (10th Cir. 2004).

We conclude that petitioners have not shown that the district court usurped its judicial power or clearly abused its discretion. Accordingly, the petition is DENIED.

Entered for the Court,

A handwritten signature in cursive script, reading "Elisabeth A. Shumaker", followed by a horizontal flourish.

ELISABETH A. SHUMAKER, Clerk

09-6076 - *In re Commerce & Industry Insurance Company; AIG Domestic Claims Inc.*

**HARTZ**, Circuit Judge, concurring:

Although the discovery order seems overbroad to me, the petitioner has not made an adequate showing of a violation of the attorney-client or work-product privileges, and a writ of prohibition or mandamus is not appropriate.