

IN THE SUPREME COURT OF THE STATE OF NEVADA

LARRY ROBERSON AND SUSAN
ROBERSON,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
KATHY A. HARDCASTLE, DISTRICT
JUDGE,

Respondents,

and

LUCINI/PARISH INSURANCE, INC., A
NEVADA CORPORATION,
Real Party in Interest.

No. 44896

FILED

MAY 19 2005

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER DENYING PETITION FOR
WRIT OF PROHIBITION

This original petition for a writ of prohibition challenges a district court order that compelled arbitration. This court may issue a writ of prohibition to arrest the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of the jurisdiction of the district court.¹ A petition for a writ of prohibition is addressed to the sound discretion of this court.² Further, such a writ may issue only when there is no plain, speedy, and adequate remedy at law.³

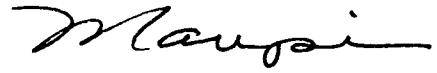
¹NRS 34.320.

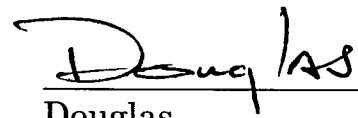
²Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

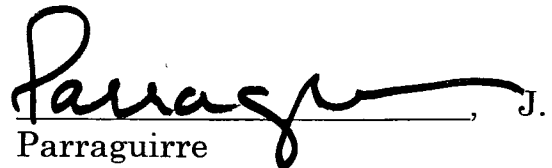
³NRS 34.330.

We have considered this petition, and we are not satisfied that this court's intervention by way of extraordinary relief is warranted at this time.⁴ The district court was within its jurisdiction to consider and grant the real party in interest's motion to compel arbitration.⁵ Accordingly, we deny the petition.

It is so ORDERED.⁶


_____, J.
Maupin


_____, J.
Douglas


_____, J.
Parraguirre

⁴NRAP 21(b).

⁵Bongiovi v. Bongiovi, 94 Nev. 321, 579 P.2d 1246 (1978); see State Ex Rel. Corbin v. Tolleson, 732 P.2d 1114, 1117 (Ariz. Ct. App. 1986) (holding that “[w]hen a party appeals a preliminary injunction, the trial court loses jurisdiction over the injunction but retains jurisdiction over the remainder of the case); Castillo v. Industrial Commission, 520 P.2d 1142 (Ariz. Ct. App. 1974) (same); Magnolia Petroleum Co. v. Blankenship, 70 S.W.2d 258 (Tex. Civ. App. 1934) (concluding that the trial court could consider a case on the merits during the pendency of an appeal from an order granting a temporary injunction).

⁶In light of this order we deny petitioners' request for a stay and oral argument as moot.

cc: Hon. Kathy A. Hardcastle, District Judge
G. Dallas Horton & Associates
Kravitz Schnitzer & Sloane, Chtd.
Clark County Clerk