

IN THE SUPREME COURT OF THE STATE OF NEVADA

DON L. ROSS AND CORINNE L. ROSS,
TRUSTEES FOR THE DON AND
CORINNE REVOCABLE TRUST;
PETER H. KENDRICK; AND CHARLES
R. WHIPPLE,
Petitioners,

vs.

THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE, AND THE HONORABLE
JEROME POLAHA, DISTRICT JUDGE,
Respondents,

and

ADEFUNKE VANDENBURG;
GREENPOINT MORTGAGE FUNDING,
INC.; MARIN CONVEYANCING
CORPORATION; AND FEDERAL
HOME LOAN MORTGAGE
CORPORATION,
Real Parties in Interest.

No. 45411

FILED

SEP 22 2005

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

ORDER DENYING PETITION
FOR WRIT OF PROHIBITION OR MANDAMUS
AND VACATING STAY

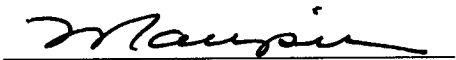
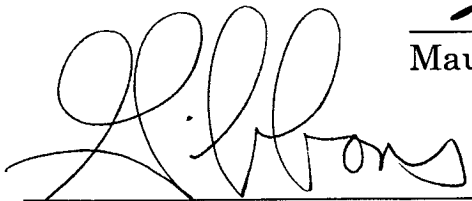
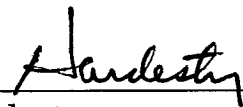
This is an original petition for writ of prohibition, or in the alternative writ of mandamus, challenging a district court's partial summary judgment order, which expunged petitioners' lis pendens and dismissed their claims for specific performance and quiet title.

On July 5, 2005, we issued an order granting a temporary stay of the judgment entered in Second Judicial District Court Case No. CV03-03598, pending our receipt and consideration of any opposition to the stay

motion. We also ordered the real parties in interest to file an answer to the petition.

Having reviewed the petition, answers, petitioners' reply¹ and other documents filed by the parties, we conclude that extraordinary relief is not warranted and decline to intervene.² Specifically, we note that during the April 22, 2005 district court hearing, petitioners' counsel stated that his clients have long been interested in letting Vandenburg remain in the house and pursuing against Greenpoint a settlement for money damages only, but recognize that it would be difficult for Greenpoint to settle this case while the lis pendens remains in place. As it appears that any issues relating to money damages would be more appropriately considered in an appeal from the final judgment, if petitioners are aggrieved, we deny the petition and vacate our temporary stay order entered on July 5, 2005.³

It is so ORDERED.


Maupin, J.

Gibbons, J.

Hardesty, J.

¹We grant petitioners' motion for leave to file a reply brief, and direct the court clerk to file petitioners' reply brief received on August 12, 2005.

²See Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991); Pan v. Dist. Ct., 120 Nev. 222, 88 P.3d 840 (2004).

³In light of this order, we also deny as moot Vandenburg's July 27, 2005 request for a settlement conference.

cc: Hon. Jerome Polaha, District Judge
Woodburn & Wedge
Law Offices of Edward Bernard
Miles, Bauer, Bergstrom & Winters, LLP
Washoe District Court Clerk